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FEDERAL REGISTER

VOLUME 13 1934 NUMBER 228

OF THE UNITED STATES

Washington, Tuesday, November 23, 1948

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office

PART 2—REVISION, REOPENING, REVIEW OF SETTLEMENTS

PART 4—ACCOUNTS AND CLAIMS

PART 12—ORGANIZATION AND DESIGNATIONS OF EMPLOYEES TO ACT AS OR FOR THE COMPTROLLER GENERAL OF THE UNITED STATES

PART 13—DECISIONS OF THE COMPTROLLER GENERAL OF THE UNITED STATES

MISCELLANEOUS AMENDMENTS

NOVEMBER 17, 1948.

1. Section 2.1 is amended to read as follows:

§ 2.1 *Applications for review; time; requirements.* (a) Settlements made after July 1, 1921, will be reviewed, in the discretion of the Comptroller General, upon the written application of:

(1) A claimant whose claim has been settled.

(2) A disbursing officer whose accounts have been settled.

(3) A certifying officer responsible under the act of December 29, 1941, 55 Stat. 875.

(4) The head of the department or Government establishment to which the claim or account relates.

(5) Upon the motion of the Comptroller General.

(b) Applications for review should state the error or incorrectness of the settlement. An application in general terms will not be sufficient ordinarily to induce the discretion to review, and particularly not where claimant is represented by attorney or agent.

(c) It shall be necessary, unless otherwise directed by the Comptroller General on the presentation of proper facts in the particular case, that the warrant or check issued upon a settlement must not be cashed where its amount includes any item as to which review is applied for, but should accompany the application for review. (Secs. 309 311 (f), 42 Stat. 25; 31 U. S. C. 49, 52 (f))

2. Sections 4.2 and 4.3 are amended to read as follows:

§ 4.2 *Filing of claims.* Claims may be filed with the Claims Division, General Accounting Office, Washington 25, D. C.,

except that claims of common carriers for transportation services rendered for the account of the United States should be filed with the Transportation Division, General Accounting Office, Washington 25, D. C., and claims pertaining to postal matters including transporting the mails should be filed with the Postal Accounts Division, General Accounting Office, Asheville, North Carolina. No particular form for filing claims, except that prescribed in connection with claims for amounts due deceased persons, is required.

§ 4.3 *Information relating to claims.* Information relating to claims may be obtained by claimants or their authorized representatives by addressing the same division with which the matter was originally filed or the General Accounting Office, 5th and F Streets, N. W., Washington 25, D. C. Interviews will be accorded claimants or their authorized representatives at Room 201, at the latter address. (Sec. 309, 311 (f), 42 Stat. 25; 31 U. S. C. 49, 52 (f))

3. The codification of Parts 12 and 13 is hereby discontinued. Future amendments to these provisions will appear in the Notices section of the FEDERAL REGISTER.

LINDSAY C. WARREN,
Comptroller General
of the United States.

[F. R. Doc. 48-10167; Filed, Nov. 22, 1948;
8:47 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 2—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

ELEVATOR OPERATOR POSITIONS EXCLUDED FROM APPORTIONMENT

Effective November 16, 1948, § 2.110 (a) (2) (vi) is amended by the addition of the position of Elevator Operator to positions excluded from apportionment. As amended, the subdivision reads as follows:

§ 2.110 *Apportionment.* (a) * * *

(2) * * *

(vi) Positions of operating engineman, fireman, oiler, general helper, laborer,

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1947.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

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foreman of laborers, gardner, grounds keeper, animal keeper, chauffeur, truck driver, elevator operator, and telephone operator.

(R. S. 1753; sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

NOTE: Because of the number and importance of pending cases which would be affected by this amendment, the Commission finds good cause exists for making the amendment effective November 16, 1948.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 48-10250; Filed, Nov. 22, 1948; 9:43 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

PART 959—IRISH POTATOES GROWN IN THE COUNTIES OF CROOK, DESCHUTES, AND KLAMATH, OREGON, AND MODOC AND SISKIYOU, CALIFORNIA

LIMITATION OF SHIPMENTS

§ 959.302 *Limitation of shipments; Regulation No. 2—(a) Findings.* (1) Pursuant to Order No. 59 (7 F. R. 365) regulating the handling of potatoes grown in the Counties of Crook, Deschutes, and Klamath in the State of Oregon, and Modoc and Siskiyou in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of recommendations and information submitted by the Administrative Committee established under said marketing order, and other available information, it is hereby found that such limitation of shipments of potatoes as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) shipments of potatoes grown in the area are already being made in volume for the current season and such shipments will continue in seasonal volume for the next several months, (ii) the limitation of shipments of said potatoes pursuant hereto must be made effective on the date hereinafter set forth to effectuate the declared policy of the act, (iii) information with respect to recommendations of the aforesaid Administrative Committee did not become available until after their meeting on November 17, 1948, (iv) information regarding recommendations of the committee has been disseminated to producers and handlers of potatoes grown in the area and the limitation hereinafter set forth is identical with the recommended limitation, (v) compliance with such limitation does not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof, and (vi) a reasonable time is permitted under the circumstances for such preparation.

(b) *Order.* (1) During the period beginning November 29, 1948 and ending June 30, 1949, both dates inclusive, no handler shall ship potatoes subject to regulation pursuant to Order No. 59 which are of sizes less than 2 inches in diameter or which are of sizes less than 4 ounces in weight, subject to tolerance for size determined in accordance with the U. S. Standards for Potatoes.

(2) Size determinations pursuant hereto shall be in accordance with the U. S. Standards for Potatoes.

(3) Terms used herein shall have the same meaning as when used in Order No. 59 or as when used in the U. S. Standards

for Potatoes (12 F. R. 3651). (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 19th day of November 1948.

[SEAL]

M. W. BAKER,
Acting Director,
Fruit and Vegetable Branch.

[F. R. Doc. 48-10283; Filed, Nov. 22, 1948;
9:29 a. m.]

Chapter XXI—Organization, Functions, and Procedure

PART 2204—OFFICE OF INFORMATION

DISCONTINUANCE OF CODIFICATION

The codification of Part 2204 is discontinued. Future amendments to descriptions of organization and functions will appear in the Notices section of the FEDERAL REGISTER.

[SEAL]

KEITH HIMEBAUGH,
Director of Information.

[F. R. Doc. 48-10170; Filed, Nov. 22, 1948;
8:47 a. m.]

TITLE 15—COMMERCE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[Allocations Reg. 2, Direction 4A as Amended
Nov. 22, 1948]

PART 336—REGULATIONS APPLICABLE TO OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

USE AND EFFECT OF CERTIFIED EXPORT ORDERS FOR NITROGENOUS FERTILIZER MATERIALS (1948-49 EXPORT PROGRAM)

Direction 4A, as amended October 28, 1948, is hereby further amended to read as follows:

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of nitrogenous fertilizer materials for defense, for private account and for export; and the following direction is deemed necessary and appropriate in the public interest and to promote the national defense and to effectuate the policies set forth in the legislation under which this direction is administered.

Purpose

(a) *Purpose.* This direction explains how the Office of Domestic Commerce, Department of Commerce, will give export priorities assistance for carrying out the 1948-49 nitrogenous fertilizer materials export program. This includes assistance to exporters for getting the materials for export and also assistance to converters for getting anhydrous ammonia needed to fill orders from exporters, if the converters do not produce anhydrous ammonia themselves. The 1948-49 export program is for the shipment of nitrogenous fertilizer materials containing 61,287 short tons of nitrogen, broken down by countries as shown in Table 1 below. The program is based upon international distribution recommendations made by the International

Emergency Food Committee of the United Nations. Under these recommendations the United States participation consists of the exports mentioned above (which are the same as for last year) and of imports representing 199,004 short tons of nitrogen (an increase of 11,000 short tons over last year). One-half of the export requirements are to be supplied from Army production, pursuant to Public Law 606, 80th Congress and Public Law 793, 80th Congress.

Assistance for Exporters

(b) *How exporters get assistance.* Export priorities assistance for exporters will consist of authorization to place CXN certified export orders for their materials, which will give such orders the preferential status explained in paragraph (f) below. Except for exports to Canada, this authorization will be issued, upon behalf of ODC, by the Office of International Trade in connection with the issuance of the related export licenses, and exporters desiring to obtain such priorities assistance should apply by letter to the Office of International Trade, Department of Commerce, Washington 25, D. C., Ref.: AR 2, Direction 4A. In these cases authorization to use the symbol CXN will not be given except where an export license is also given. For priorities assistance on exports to Canada, exporters should apply by letter to the ODC.

(c) *How exporters use the symbol CXN.* (1) When an exporter has been authorized in writing by the Office of International Trade to use the symbol CXN on purchase orders for specified quantities of nitrogenous fertilizer materials, he should place on his purchase order the symbol CXN, the export license number given by the Office of International Trade, and the country of destination. In addition, he should furnish to his supplier a certificate, signed manually or as described in Allocations Regulation 1, in substantially the following form:

I certify, subject to the penalties of Section 35A of the United States Criminal Code, that the nitrogenous fertilizer materials covered by this purchase order are within the quantity which the Department of Commerce has authorized me to purchase by orders identified with the symbol CXN for shipment to the specified country of destination, under the export license number specified.

In the case of CXN authorizations for export to Canada, the exporter will not supply an export license number and should delete from his certificate the words "under the export license number specified."

(2) Exporters who have received authorization to place CXN certified orders for ammonium nitrate should communicate with the ODC for instructions as to placing such orders. These instructions will be based upon the quantities and time schedules for ammonium nitrate to be made available by the Department of the Army under existing law. CXN certified orders for other types of nitrogenous fertilizer materials authorized may be placed with producers of the particular materials or agents of such producers. When an order bearing the

symbol CXN and the certificate is placed with a producer's agent, it has the same effect as though it had been placed with the producer.

Assistance for Converters

(d) *How converters get assistance.* Export priorities assistance for converters will consist of authorization by ODC to place certified orders for anhydrous ammonia needed to fill CXN certified orders received by them from exporters. A "converter" is a person who produces nitrogenous fertilizer materials but does not make any of the nitrogen used in such production.

When a converter has received a CXN certified export order, he should notify the ODC by letter, stating the name of the purchaser, the export license number, the country of destination, the quantity of material ordered, the quantity of anhydrous ammonia needed, and the date by which it should be delivered in order to fill the CXN export order. The ODC will then issue to the converter an authorization to place certified orders for an approved quantity of anhydrous ammonia to the extent available, and will specify whether the ammonia is to be obtained from commercial sources or from Army Ordnance plants.

(e) *How converters use export preference certificates.* When a converter has been authorized, in writing, to place a certified export order for specified quantities of anhydrous ammonia, he should place on his purchase order, a certificate, signed manually or as prescribed in Allocations Regulation 1, in substantially the following form:

I certify, subject to the penalties of Section 35A of the United States Criminal Code, that the anhydrous ammonia covered by this purchase order is within the quantity which the Office of Domestic Commerce has authorized me to purchase by certified export orders in accordance with Direction 4A to Allocations Regulation 2.

Effect of Certified Export Orders

(f) *Effect of certified export orders.* Any purchase order for fertilizer material or for anhydrous ammonia certified under this direction and placed with a commercial supplier must be treated as a certified export order under Allocations Regulation 2, and must be accepted, scheduled and delivered accordingly. The rules of Allocations Regulation 2 apply, except to the extent that this direction is inconsistent with these rules. Paragraph (g) below contains certain special rules which limit the effect of such certified orders under this direction. In the case of certified purchase orders placed with the Department of the Army, the certification serves to identify the orders as eligible for materials to be made available by that Department under existing law.

(g) *Limitation on the effect of certified orders.* The effect of certified export orders is subject to the following limitations intended to minimize their impact upon domestic needs. These limitations apply in all cases, except where otherwise directed by ODC because of special circumstances.

(1) *Time limit on placing certified orders.* Purchase orders for the export of

fertilizer materials certified under this direction must be placed with the supplier of the material (a converter or other manufacturer) no later than the close of business on December 15, 1948. Purchase orders certified under this direction for anhydrous ammonia, required to manufacture the certified export order for the fertilizer materials, must be placed with a producer of anhydrous ammonia no later than the close of business on December 31, 1948. All authorizations heretofore issued by OIT and ODC to place certified orders either for the purchase of nitrogenous fertilizer materials or for the purchase of anhydrous ammonia are hereby revalidated, irrespective of the deadline date in effect at the time the authorization was issued. Certified purchase orders for the export of fertilizer materials placed after the close of business on December 15, 1948 and certified orders for anhydrous ammonia placed after the close of business on December 31, 1948, need not be treated as certified orders by the person with whom they are placed.

(2) *Limit to 30% of production in any month.* No commercial supplier need deliver against certified orders in any month more than 30% of his total production of the particular type of material in that month. A certified purchase order calling for more than such 30% of the supplier's total production may not be totally rejected by the supplier for that reason. The order must be accepted and filled up to an amount which, either alone, or when added to other certified orders totals the 30% limit. Any balance over and above such amount need not be treated as part of the certified order.

(3) *Ceiling on orders against producers.* Except in the case of a converter, no producer of nitrogenous compounds (including anhydrous ammonia) or other nitrogenous fertilizer materials need accept purchase orders certified under this direction calling for more nitrogen than 3.25% of his total production of nitrogen (in all forms) during the fertilizer year July 1, 1947-June 30, 1948, if he was in production during the whole of that year. A certified purchase order for nitrogenous compounds (including anhydrous ammonia) or other nitrogenous fertilizer materials, which calls for more than 3.25% of the producer's total production of nitrogen (in all forms) during the fertilizer year July 1, 1947-June 30, 1948, may not be totally rejected by the producer for that reason. It must be accepted and filled by him up to an amount which, either alone or when added to other certified orders totals the 3.25% limit. Any balance over and above such amount need not be treated as part of the certified order.

If such producer of nitrogenous compounds was not in production during the whole of that year, he may request the ODC to establish an appropriate ceiling based on production estimates, in order to limit his general obligation to accept and fill certified orders placed with him.

(4) *Producers from by-product hydrogen.* Because of specialized industrial conditions, persons who produce anhydrous ammonia from by-product

hydrogen resulting from electrolytic-cell operations need not accept certified orders under this direction.

Revalidation of Certified Orders Already Placed

(h) *Revalidation of certified orders already placed.* Irrespective of the deadline date of October 31, 1948 specified in Direction 4A to AR 2, as issued on July 22, 1948, any certified purchase order for the export of fertilizer materials and any certified order for anhydrous ammonia, which has been placed with a commercial supplier prior to the date of issue of this Direction 4A as amended (November 22, 1948), must be treated by the supplier as a certified export order and must be accepted, scheduled and delivered accordingly, subject to the limitations specified in paragraphs (g) (2) and (g) (3) above.

General Provisions

(i) *Assistance in finding suppliers.* If any exporter authorized to use the symbol CXN is unable to find a supplier to accept his order, he may apply to the ODC which will, wherever possible, refer him to other suppliers who have available supplies.

(j) *Delegations.* The Office of International Trade, Department of Commerce, may, upon behalf of the ODC, authorize exporters to use the symbol CXN under this direction on purchase orders for nitrogenous fertilizer materials for export (except exports to Canada) but only to the extent under the conditions authorized by the ODC in writing and transmitted to the Office of International Trade. The Office of International Trade may exercise this authority through such of its officials as the Director of that Office may determine.

(k) *Appeals.* Any person who considers that compliance by himself with this direction would work an exceptional and unreasonable hardship on him may appeal to the Office of Domestic Commerce for relief. The appeal must be prepared and presented in conformity to the provisions of Allocations Regulation 3.

(l) *Reports—(1) From persons placing certified orders.* Whenever any person places a certified order under this direction, he must immediately notify ODC, in writing, of the names of the suppliers, the tonnages ordered, and the months specified for delivery.

(2) *From producers.* Producers (including converters) of nitrogenous compounds (including anhydrous ammonia) or of nitrogenous fertilizer materials must file such reports as may be required, with the ODC, subject to the approval of the Bureau of the Budget.

(m) *Communications.* Except as otherwise specifically stated above, all communications regarding this order, and all reports under this order, should be addressed to the Chemicals Division, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref: AR 2, Dir. 4A.

NOTE: The reporting requirements of this direction have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Laws 188, 606, 793, 80th Cong.; E. O. 9841, Apr. 23, 1947, 12 F. R. 2645; Materials Control Reg. 1, as amended May 7, 1948, 13 F. R. 2508)

Issued this 22d day of November 1948.

OFFICE OF DOMESTIC
COMMERCE,
RAYMOND S. HOOVER,
Issuance Officer.

TABLE I, 1948-49 NITROGENOUS FERTILIZER
MATERIALS EXPORT PROGRAM

Country of destination:	Export quantities (short tons of nitrogen)
Canada	1,102
China and Formosa	17,471
France and Empire	12,015
Greece	3,858
India	4,409
Netherlands	10,050
Netherlands East Indies	1,249
Philippines	3,417
Latin America	7,716
Total export program	61,287

[F. R. Doc. 48-10284; Filed, Nov. 22, 1948; 9:43 a. m.]

TITLE 18—CONSERVATION OF POWER

Chapter IV—Southwestern Power Administration, Department of the Interior

PART 500—ORGANIZATION AND PROCEDURE
ASSISTANT ADMINISTRATOR, ACTING ADMINISTRATOR AND ACTING ASSISTANT ADMINISTRATOR

CROSS REFERENCE: For additional information concerning organization of the Southwestern Power Administration, see F. R. Doc. 48-10169 in the Notices section, *infra*.

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration (Old-Age and Survivors Insurance), Federal Security Agency

[Regs. 8, Amdt.]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE

MAGAZINE AND NEWS VENDORS' SERVICES.

Correction

In Federal Register Document 48-10141, appearing on page 6839 of the issue for Saturday, November 20, 1948, the following correction to amendatory paragraph 2 should be made: Paragraph (B) should read as follows:

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

TITLE 24—HOUSING CREDIT

Chapter VI—Public Housing Administration

PART 610—LOW-RENT HOUSING AND SLUM CLEARANCE PROGRAM: PROCEDURES

REQUIREMENTS FOR URBAN LOW-RENT HOUSING AND SLUM CLEARANCE

Section 610.413¹ is hereby amended, effective immediately, to read as follows:

§ 610.413 *Insurance and bonds during management*—(a) *Coverages*. The required coverages are: fire and extended coverage; earthquake in localities where such insurance is commonly carried; workmen's compensation; owners', landlords' and tenants' public liability (excluding property damage); automobile, owned and non-owned, boiler (if boilers have been installed); burglary and inside robbery; outside robbery; and fidelity bonds. Other types of insurance may be obtained only with the prior written approval of the PHA.

(b) *Limitations*. The Local Authority shall obtain insurance from financially sound and responsible insurance companies for each development in the coverages, types, and amounts or limits prescribed by the PHA. Such insurance shall be payable in such manner, with such insurers, and at such costs as may be approved by the PHA.

Fire and extended coverage insurance and owners', landlords' and tenants' public liability insurance purchased by the Local Authority shall be obtained after inviting competitive bids. In inviting such bids, the Local Authority shall not discriminate against either stock or mutual companies. Insurance shall be awarded to the lowest bidder provided the lowest bid is reasonably within range of the lowest net costs known to be available to the Local Authority. With the prior approval of the PHA, the Local Authority may award the insurance to other than the lowest bidder if the award is made on a bid which is also reasonably within range of the lowest net costs known to be available to the Local Authority, and if the Local Authority determines that such an award is in the best interest of the low-rent housing program in the community. Net cost is construed to mean the estimated cost after deducting from the gross deposit premium any anticipated dividend based on the dividend-paying record of the company for the previous ten years.

Certified duplicate copies of all policies and bonds shall be submitted to the PHA not less than 30 days prior to the effective date thereof for review to determine compliance with these requirements.

(c) *Public liability claims*. Insurance companies shall not be permitted to defend any public liability claim on the ground of immunity of the Local Authority. (50 Stat. 888, as amended; 42 U. S. C. 1401 et seq.)

[SEAL]

JOHN TAYLOR EGAN,
Commissioner.

[F. R. Doc. 48-10181; Filed, Nov. 22, 1948; 9:01 a. m.]

¹ Part 610, formerly Part 601, appeared in 10 F. R. 7321.

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg., Amdt. 49]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, item 96a, is amended to describe the counties in the Defense-Rental Area as follows: "In Montgomery County, Union Township and all of New Market."

This decontrols all of the Crawfordsville, Indiana, Defense-Rental Area except Union Township and all of New Market.

2. Schedule A, item 163, is amended to describe the Counties in the Defense-Rental Area as follows: "Adams and Pike."

This decontrols Amite and Wilkinson Counties, State of Mississippi, in the Centreville, Mississippi, Defense-Rental Area.

3. Schedule A, item 333c, is amended to describe the Counties in the Defense-Rental Area as follows: "In Cache County, the Cities of Logan, North Logan, Logan Heights, Providence, Hyde Park and Smithfield."

This decontrols all of the Logan, Utah, Defense-Rental Area except the Cities of Logan, North Logan, Logan Heights, Providence, Hyde Park and Smithfield.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204 (c), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (c))

This amendment shall become effective November 23, 1948.

Issued this 18th day of November 1948.

TIGHE E. WOODS,
Housing Expediter.

Statement To Accompany Amendment 49 to the Controlled Housing Rent Regulation

It is the judgment of the Housing Expediter that the need for continuing maximum rents in the portions of the Defense-Rental Areas specified below no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met:

1. All of the Crawfordsville, Indiana, Defense-Rental Area, except Union Township and all of New Market.

2. Amite and Wilkinson Counties, State of Mississippi, in the Centreville, Mississippi, Defense Rental Area.

3. All of the Logan, Utah, Defense-Rental Area, except the Cities of Logan, North Logan, Logan Heights, Providence, Hyde Park and Smithfield.

This amendment is therefore being issued to decontrol said portions of said Defense-Rental Areas in accordance

¹ 13 F. R. 5706, 5788, 5783, 5937, 6246, 6283, 6411, 6556.

with section 204 (c) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 48-10194; Filed, Nov. 22, 1948; 8:52 a. m.]

[Rent Reg. for Controlled Rooms in Rooming Houses and Other Establishments, Amdt. 49]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, item 96a, is amended to describe the counties in the Defense-Rental Area as follows: "In Montgomery County, Union Township and all New Market."

This decontrols all of the Crawfordsville, Indiana, Defense-Rental Area except Union Township and all of New Market.

2. Schedule A, item 163, is amended to describe the Counties in the Defense-Rental Area as follows: "Adams and Pike."

This decontrols Amite and Wilkinson Counties, State of Mississippi, in the Centerville, Mississippi, Defense-Rental Area.

3. Schedule A, item 333c, is amended to describe the Counties in the Defense-Rental Area as follows: "In Cache County, the Cities of Logan, North Logan, Logan Heights, Providence, Hyde Park and Smithfield."

This decontrols all of the Logan, Utah, Defense-Rental Area except the Cities of Logan, North Logan, Logan Heights, Providence, Hyde Park and Smithfield.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204 (c), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (c))

This amendment shall become effective November 23, 1948.

Issued this 18th day of November 1948.

TIGHE E. WOODS,
Housing Expediter.

Statement To Accompany Amendment 49 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments

It is the judgment of the Housing Expediter that the need for continuing maximum rents in the portions of the Defense-Rental Areas specified below no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met:

1. All of the Crawfordsville, Indiana, Defense-Rental area, except Union Township and all of New Market.

2. Amite and Wilkinson Counties, State of Mississippi, in the Centerville, Mississippi, Defense-Rental Area.

3. All of the Logan, Utah, Defense-Rental Area, except the Cities of Logan, North Logan, Logan Heights, Providence, Hyde Park and Smithfield.

This amendment is therefore being issued to decontrol said portions of said Defense-Rental Areas in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 48-10193; Filed, Nov. 22, 1948; 8:52 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5670]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES

On July 29, 1948, notice of proposed rule making, relating to distributions by personal holding companies, was published in the FEDERAL REGISTER (13 F. R. 4361). No objections to the rules proposed having been received, the following amendments to Regulations 111 (26 CFR, Part 29) are hereby adopted. Such amendments are necessary in order to conform Regulations III to Public Law 113 (80th Congress, 1st Session), approved June 25, 1947, relating to distributions by personal holding companies.

PARAGRAPH 1. There is inserted immediately preceding § 29.115-1 the following:

PUBLIC LAW 113 (EIGHTIETH CONGRESS, FIRST SESSION), APPROVED JUNE 25, 1947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 115 (a) of the Internal Revenue Code is amended to read as follows: "In the case of a corporation which, under the law applicable to the taxable year in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which the distribution is made under section 504 (c) or section 506 or a corresponding provision of a prior income-tax law, is a personal holding company under the law applicable to such taxable year, such term also means any distribution (whether or not a dividend as defined in the preceding sentence) to its shareholders, whether in money or in other property, to the extent of its subchapter A net income, less the sum of the following:

"(1) The net operating loss credit provided in section 26 (c) (1);

"(2) The dividend carry-over provided in section 27 (c); and

"(3) The deduction for amounts for retirement of indebtedness provided in section 504 (b)."

SEC. 2. The amendment made by section 1 shall be effective for all taxable years beginning after December 31, 1943.

SEC. 3. No interest shall be allowed or paid in respect of any overpayment of tax resulting from the foregoing amendment.

PAR. 2. Section 29.115-1, as amended by Treasury Decision 5377, approved June 6, 1944, is amended as follows:

(A) By striking out the second paragraph and inserting in lieu thereof the following:

§ 29.115-1 Dividends. * * *

In the case of a corporation which, under the law applicable to the taxable year in which a distribution is made, is a personal holding company or which, for the taxable year in respect of which a distribution is made under section 504 (c), relating to dividends paid within 2½ months after the close of the taxable year, or section 506, relating to deficiency dividends, or corresponding provisions of a prior income-tax law, was under the applicable law a personal holding company, the term "dividend", in addition to the meaning set forth in the first sentence of section 115 (a), also means the following distributions to its shareholders:

(1) A distribution within a taxable year of the corporation, and of a shareholder, both of which taxable years begin prior to January 1, 1944, is a dividend (except as hereinafter indicated) to the extent of the corporation's subchapter A net income for the taxable year in which, or, in the case of a distribution under section 504 (c) or section 506, the taxable year in respect of which, the distribution is made.

(2) A distribution within a taxable year of the corporation, or of a shareholder, where either taxable year begins after December 31, 1943, is a dividend to the extent of the corporation's subchapter A net income less the sum of the net operating loss credit provided in section 26 (c) (1), the dividend carry-over provided in section 27 (c), and the deduction for amounts for retirement of indebtedness provided in section 504 (b), for the taxable year in which, or, in the case of a distribution under section 504 (c) or section 506, the taxable year in respect of which, the distribution is made. Thus, in the case of a distribution in April, 1944, by a corporation reporting on a calendar year basis to a shareholder reporting on the basis of a fiscal year ending June 30, 1944, the taxable year of the corporation begins after December 31, 1943, and the April, 1944, distribution is a dividend, in the case of the corporation and the shareholder alike, only to the extent of the corporation's subchapter A net income reduced by the specified credits. Similarly, in the case of a distribution in April, 1944, by a corporation reporting on the basis of a fiscal year ending June 30, 1944, to a shareholder reporting on the calendar year basis, the taxable year of the shareholder begins after December 31, 1943, and the April, 1944, distribution will constitute a dividend, in the case of the corporation and the shareholder alike, only to the extent of the corporation's subchapter A net income reduced by the specified credits.

No interest shall be allowed or paid in respect of any overpayment of tax resulting from the amendment to section 115 (a) made by Public Law 113 (80th Congress). For treatment of any distribution made prior to October 21, 1942, which is a dividend solely by reason of the last sentence of section 115 (a) prior to its amendment by Public Law 113, see § 29.504-3.

¹ 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556.

The term "dividend" does not include distributions under section 115 (c), relating to distributions in liquidation, section 115 (e), relating to distributions by personal service corporations, or section 115 (f), relating to stock dividends, or certain distributions by insurance companies (see section 115 (a)). In all other cases the term includes any distribution to shareholders to the extent made out of accumulated or current earnings or profits.

(B) By striking out example (3) and inserting in lieu thereof the following:

Example (3). In 1944, a deficiency in personal holding company tax was established against the O Corporation for the taxable year 1940 in the amount of \$34,430 based on an undistributed subchapter A net income of \$42,000 which consisted of a subchapter A net income of \$52,000 minus a deduction of \$10,000 for amounts used for retirement of indebtedness provided in section 504 (b). The O Corporation complied with the provisions of section 506 and in December 1944 distributed \$42,000 to its stockholders as "deficiency dividends". The distribution of \$42,000 is a taxable dividend since it does not exceed \$42,000 (subchapter A net income of \$52,000 for 1940, the taxable year with respect to which the distribution was made, minus the deduction for retirement of indebtedness of \$10,000). It is immaterial whether the O Corporation is a personal holding company for the taxable year 1944 or whether it had any income for that year.

Example (4). At the beginning of the taxable year 1946, the P Corporation, a personal holding company, had a deficit in earnings and profits of \$200,000. During that year it made earnings and profits of \$55,000. For that year, however, it had a subchapter A net income of \$100,000, a net operating loss credit under section 26 (c) (1) of \$10,000 and a deduction for retirement of indebtedness under section 504 (b) of \$10,000. During such taxable year it distributed to its shareholders \$100,000. The distribution of \$100,000 is a taxable dividend to the extent of \$80,000 (subchapter A net income of \$100,000 minus the net operating loss credit of \$10,000 and the deduction for retirement of indebtedness of \$10,000). No interest shall be allowed or paid in respect of any overpayment of tax resulting from the inclusion in taxable income by any shareholder of his proportionate share of the distribution of \$100,000.

Example (5). If the facts were the same as in example (4) except that the P Corporation had earnings and profits for the taxable year 1946 of \$90,000, the distribution of \$100,000 would be a taxable dividend to the extent of \$90,000 since its earnings and profits for that year, \$90,000, exceed \$80,000 (subchapter A net income of \$100,000 minus the net operating loss credit of \$10,000 and the deduction for retirement of indebtedness of \$10,000).

PAR. 3. Section 29.27 (1)-1, as amended by Treasury Decision 5458, approved June 15, 1945, is amended by striking out examples (1) and (2) and inserting in lieu thereof the following examples:

§ 29.27 (1)-1 Nontaxable distributions.

Example (1). A, B, and C are shareholders of the Y Corporation, a personal holding company, which makes its returns on the basis of a fiscal year ending July 31. A is an educational corporation exempt from income tax under section 101. On July 15, 1944, the Y Corporation distributed \$90,000 in cash to its shareholders, \$30,000 to each. The Y Corporation had a deficit in earnings and profits as of the beginning of its taxable year in the amount of \$200,000, but had a subchapter A net income for the taxable year in the amount of \$90,000. Its earnings and profits for the taxable year were only \$50,000. It was entitled under section 26 (c) (1) to a net operating loss credit of \$30,000. B makes his return on the calendar year basis, but C makes his return on the basis of a fiscal year ending July 31. Since B is subject to taxation under the income tax provisions of the Code with respect to taxable receipts realized in July 1944, and since his taxable year began after December 31, 1943, the \$30,000 distribution received by him from the Y Corporation will constitute a taxable dividend in his hands only to the extent of \$20,000, the amount of \$30,000 reduced by a proportionate part of the net operating loss with respect to the distribution on July 15. accordingly, will be entitled to an allowance for dividends paid in the amount of \$80,000 with respect to the distribution on July 15.

Example (2). If the facts in the preceding example are the same, except that C makes his return on the calendar year basis, the Y Corporation is entitled to an allowance for dividends paid in the amount of \$70,000 with respect to the distribution on July 15.

PAR. 4. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

(53 Stat. 32; 26 U. S. C. 62)

GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

Approved: November 17, 1948.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 48-10195; Filed, Nov. 22, 1948;
8:53 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Order 348]

PART 50—ORGANIZATION AND PROCEDURE

DELEGATIONS OF AUTHORITY TO THE REGIONAL ADMINISTRATORS, MANAGERS, AND CLASSES OF EMPLOYEES IN SPECIFIED MATTERS

NOVEMBER 15, 1948.

1. *Delegations to regional administrators.* A new subparagraph (1) is added to paragraph (a) of § 50.451, to read as follows:

§ 50.451 Functions with respect to various statutes (a) * * *

(1) Applications to lease public lands for grazing purposes under section 15 of the act of June 28, 1934 (48 Stat. 1275; 43 U. S. C. 315m), as amended, and the issuance, modification, renewal, assignment, or cancellation of such leases, the disposition of protests and conflicting applications, the issuance of permits or the execution of cooperative agreements for the construction and maintenance of improvements on lands so leased, and determinations as to the value of such improvements. The authority granted to the Director by this subparagraph may be redelegated by him to any employee of the Bureau of Land Management by an order published in the FEDERAL REGISTER. (R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201)

2. *Delegations to the managers.* A new subparagraph (1) is added to paragraph (a) of § 50.501 to read as follows:

§ 50.501 Functions with respect to various statutes (a) * * *

(1) (See § 50.601)

3. *Delegation to classes of employees in specified matters.* A new section is added as follows:

§ 50.601 *Grazing leases; permits and cooperative agreements in connection with lands under section 15 grazing leases.* The managers of district land offices, district graziers, and district foresters may act, with respect to areas designated by the regional administrator, as signing officers in relation to the following classes of matters in accordance with applicable regulations and procedures, without obtaining the approval of the Director or regional administrator, unless the Director or regional administrator in any particular matter determines otherwise, subject in any event to an appeal to the Director and from his decision to the Secretary in accordance with the rules of practice:

Applications to lease public lands for grazing purposes under section 15 of the act of June 28, 1934 (48 Stat. 1275; 43 U. S. C. 315m), as amended, and the issuance, modification, renewal, assignment, or cancellation of such leases, the disposition of protests and conflicting applications, the issuance of permits or the execution of cooperative agreements for the construction and maintenance of improvements on lands so leased, and determinations as to the value of such improvements.

MARION CLAWSON,
Director.

[F. R. Doc. 48-10168; Filed, Nov. 22, 1948;
8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 953]

LEMONS GROWN IN CALIFORNIA AND ARIZONA

GENERAL NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO APPROVAL OF BUDGET OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1948-1949 FISCAL YEAR

Consideration is being given to the following proposals submitted by the Lemon Administrative Committee, established under Marketing Agreement No. 94, as amended, and Order No. 53, as amended (7 CFR, Cum. Supp., 953.1 et seq.; 13 F. R. 766), regulating the handling of lemons grown in the State of California or in the State of Arizona, as the agency to administer the terms and provisions thereof; (1) that the Secretary of Agriculture find that expenses not to exceed \$124,845 will be necessarily incurred during the fiscal year November 1, 1948, to October 31, 1949, for the maintenance and functioning of the said committee under the aforesaid amended marketing agreement and order, and (2) that the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles lemons shall pay in accordance with the aforesaid amended marketing agreement and order during the aforesaid fiscal year, the rate of assessment at one and one-half cents (\$0.015) per box of lemons, or an equivalent quantity of lemons, handled by him as the first handler thereof during said fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, Room 2077, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this notice in the **FEDERAL REGISTER**. All documents should be filed in quadruplicate.

As used herein, "handler," "handles," "handled," "box," and "lemons" shall each have the respective meaning as when used in the amended marketing agreement and order.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 7 CFR, Cum. Supp., 953.1 et seq.; 13 F. R. 766, 13 F. R. 6235)

Done at Washington, D. C., this 18th day of November 1948.

[SEAL]

M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 48-10202; Filed, Nov. 22, 1948; 8:53 a. m.]

[7 CFR, Part 989]

[Docket No. AO-198]

HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR and Supps., 900.1 et seq.; 12 F. R. 1159, 4904), notice is hereby given of a public hearing to be held with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of raisins produced from raisin variety grapes grown in California. Such hearing will be held at 1401 Fulton Street, 10th Floor Auditorium, Fresno, California, beginning at 9:30 a. m., P. s. t., December 13, 1948. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

This public hearing will be held for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the provisions of the proposed marketing agreement and order which is hereinafter set forth and any appropriate modifications thereof. The Raisin Working Committee, a committee of California raisin producers and handlers, proposed the following marketing agreement and order regulating the handling of raisins produced from raisin variety grapes grown in California and requested a hearing thereon (the provisions identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed marketing order):

§ 989.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

(d) "Area" means the State of California.

(e) "Raisin variety grapes" means grapes of the Thompson Seedless (or Sultanina), Muscat of Alexandria (or Muscat), Muscatel Gordo Blanco (or Muscat), Black Corinth (or Zante Currant), White Corinth (or Zante Cur-

rant), or Seedless Sultanina (or Sultanina) variety, grown in the area.

(f) "Raisins" means any raisin variety grapes from which a part of the natural moisture has been removed.

(g) "Bleached raisins" means any raisins which have been produced by soda dipping, with or without oil, or by such soda dipping and bleaching, whether sun-dried or dehydrated.

(h) "Golden Bleached raisins" means bleached raisins the production of which includes sulphur-bleaching and artificial dehydration.

(i) "Natural condition raisins" means raisins which have been produced by sun-drying or drying by artificial heat, with or without bleaching, but which have not been otherwise processed or prepared for market.

(j) "Packed raisins" means raisins which have been cleaned, sorted, stemmed, seeded, and placed in any container customarily used in the marketing of raisins or in any container suitable or usable for such marketing.

(k) "Varietal type" means natural (sun-dried) Thompson Seedless, natural (sun-dried) Muscat, natural (sun-dried) Sultanina, natural (sun-dried) layer Muscat, Golden Bleached, Sulphur Bleached, Soda Dipped, or Valencia raisins.

(l) "Pack" means to perform the function of a packer.

(m) "Packer" means any person who acquires raisins and cleans, sorts, stems, seeds, or packs them for market as raisins.

(n) "Producer" is synonymous with "grower" and means any person engaged in the business of producing raisins.

(o) "Dehydrator" means any person who produces raisins by dehydrating raisin variety grapes by means of artificial heat.

(p) "Processor" means any person who acquires raisins and produces any product in which raisins are an ingredient or converts them, or any part thereof, to a different form and markets and/or distributes such product or the product of such conversion.

(q) "Handler" means any packer, dehydrator, or processor.

(r) "Acquire" means to obtain possession of raisins by dehydrating raisin variety grapes by means of artificial heat or by receiving raisins from producers and includes, but is not limited to, raisins received under a contract or arrangement for toll packing, toll dehydrating, or toll processing, whether or not received or placed in a pool with other raisins, and raisins received by a cooperative association, and, in the case of a handler producing raisins, includes all raisins produced by him when they are placed in sweat boxes or other containers in which raisins are customarily stored prior to packing or processing or in such containers as are suitable or usable for such storage.

(s) "Board" means the Raisin Advisory Board established pursuant to § 989.2.

(t) "Committee" means the Raisin Administrative Committee established pursuant to § 989.3.

(u) "Ton" means a short ton of 2,000 pounds.

(v) "Crop year" is synonymous with "fiscal period" and means the twelve month period beginning August 15 of any year and ending August 14 of the following year, both dates inclusive.

(w) "District" means any one of the geographical areas specified in paragraph (a) (1) of § 989.2.

(x) "File" means receipt by the Secretary or by a telegraph company as shown by the time of filing recorded by such company or by a post office as shown by the postmark affixed by such office.

§ 989.2 Raisin Advisory Board—(a) *Establishment, membership, and term of office.* (1) A Raisin Advisory Board is hereby established consisting of 46 members, of whom 36 shall be producers, seven shall be packers, two shall be dehydrators, and one shall be a processor. The 36 producers shall be selected in the number and for the counties and districts as set forth in Exhibit A which is attached hereto and made a part hereof. For each member of the Board there shall be an alternate member who shall have the same qualifications as the member for whom he is the alternate. No person shall be selected or continue to serve as a member or alternate member of the Board who is not actively engaged either in the business of the group which he represents or as an officer, agent, or employee of a business unit engaged in such business.

(2) One-third of the producer members and producer alternate members of the Board initially selected hereunder by the Secretary shall hold office for a period beginning on the first day of June 1949 and ending on the last day of May 1950 and until the respective successor is selected and has qualified. One-third of the producer members and producer alternate members of the Board initially selected hereunder by the Secretary shall hold office for a period beginning on the first day of June 1949 and ending on the last day of May 1951 and until the respective successor is selected and has qualified. One-third of the producer members and producer alternate members of the Board initially selected hereunder by the Secretary shall hold office for a period beginning on the first day of June 1949 and ending on the last day of May 1952 and until the respective successor is selected and has qualified. The persons to hold office as producer members and producer alternate members for the respective terms of office specified above shall be determined by the drawing of lots by those persons selected by the Secretary as producer members and alternate members pursuant to paragraph (c) of this section. The term of office of succeeding producer members and producer alternate members of the Board shall be three years, but each such member and alternate member shall continue to serve until the respective successor is selected and has qualified. All members and alternate members shall be nominated and selected as hereinafter provided.

(3) The term of office of the packer members, packer alternate members, dehydrator members, dehydrator alternate members, processor members, and processor alternate members shall be three years. The initial term of such members and alternate members shall begin on the first day of June 1949 and end on the last day of May 1952.

(b) *Nomination.* (1) Nominations for each of the initial producer, packer, dehydrator, or processor members and alternate members of the Board may be submitted to the Secretary by producers, packers, dehydrators, or processors, respectively; and such nominations may be made by means of meetings of groups of such persons. Such nominations shall be filed with the Secretary not later than 15 calendar days after the effective date hereof but may be filed prior thereto. In the event nomination for a member or alternate member of the Board is not filed pursuant to and within the time specified herein, the Secretary may select such member or alternate member without regard to nomination but such selection shall be on the basis of the producer, packer, dehydrator, and processor representations set forth in paragraph (a) (1) of this section.

(2) Nominations for successor members and alternate members of the Board shall be made as hereinafter set forth:

(i) The Board shall give public notice of a meeting, or meetings, of producers, packers, dehydrators, and processors, respectively, for the purpose of making nominations for members and alternate member positions to be filled on the Board.

(ii) Only producers who produced raisins during the then current crop year in the district for which nominations are to be made may nominate, or vote for, any producer member or producer alternate member for such district. Any producer who produced raisins during the then current crop year in any of the districts may be nominated to represent any district as producer member or producer alternate member of the Board. Producers eligible to participate in a nomination, as herein specified, may nominate one or more eligible producers for each producer member position to be filled on the Board and one or more eligible producers as alternate for each person nominated for a producer member position. Each producer shall cast only one vote with respect to each nomination in which he is eligible to participate. The person receiving the most votes with respect to each producer member or producer alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(iii) Only packers who packed raisins during the then current crop year may nominate, or vote for, packer members or packer alternate members. Packers eligible to participate in a nomination may nominate one or more packers for each packer member position to be filled on the Board and one or more packers as alternate for each person nominated for a packer member position. Each packer shall cast only one vote with respect to each nomination in which he is

eligible to participate. The person receiving the most votes with respect to each packer member or packer alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(iv) Only dehydrators who dehydrated raisins during the then current crop year may nominate, or vote for, dehydrator members or dehydrator alternate members. Dehydrators eligible to participate in a nomination may nominate one or more dehydrators for each dehydrator member position to be filled on the Board and one or more dehydrator as alternate for each person nominated for a dehydrator member position. Each dehydrator shall cast only one vote with respect to each nomination in which he is eligible to participate. The person receiving the most votes with respect to each dehydrator member or dehydrator alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(v) Only processors who processed raisins during the then current crop year may nominate, or vote for, processor members or processor alternate members. Processors eligible to participate in a nomination may nominate one or more processors for the processor member position to be filled on the Board and one or more processors as alternate for each person nominated for a processor member position. Each processor shall cast only one vote with respect to each nomination in which he is eligible to participate. The person receiving the most votes with respect to the processor member or processor alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(vi) Each vote cast shall be on behalf of the person voting, his agents, subsidiaries, affiliates, and representatives. Voting at each meeting shall be in person. The result of each ballot at each such meeting shall be announced at that meeting.

(vii) All such nominations shall be certified by the Board to the Secretary on or before the tenth day of May immediately preceding such crop year.

(c) *Selection.* In selecting the members of the Board, the Secretary shall select producer, packer, dehydrator, and processor members and alternate members in the number and with the qualifications hereinabove specified. Such selections may be made from the nominations certified pursuant to paragraph (b) of this section or from other producers, handlers, dehydrators, and processors, but each such selection shall be made on the basis of the producer, packer, dehydrator, and processor representations set forth in paragraph (a) (1) of this section.

(d) *Failure to nominate.* In the event nomination for a member or alternate member on the Board is not certified pursuant to, and within the time specified in this section, the Secretary may select such member or alternate member without regard to nomination but such selection shall be on the basis of the producer, packer, dehydrator, and processor representations set forth in paragraph (a) (1) of this section.

(e) *Acceptance.* Each person selected by the Secretary as a member or as an alternate member of the Board shall, prior to serving on the Board, qualify by filing with the Secretary a written acceptance within 15 calendar days after being notified of his selection.

(f) *Alternate members.* An alternate for a member of the Board shall act in the place and stead of such member (a) during his absence, and (b), in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

(g) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member, of the Board to qualify, or in the event of removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's term shall be nominated and selected in the manner set forth in this section insofar as such provisions are applicable. If nomination to fill any vacancy is not made within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, but on the basis of the producer, packer, dehydrator, and processor representations set forth in paragraph (a) (1) of this section.

(i) *Duties.* The duties of the Board shall consist of the conducting of meetings for the purpose of filling vacancies on the Board and the certifying of nominations made for such purpose to the Secretary, the making of nominations to the Secretary, as provided in § 989.3, for member and alternate member positions of the Raisin Advisory Committee, and the making of recommendations to such committee with respect to operations hereunder.

(j) *Procedure.* (1) Except as otherwise provided herein, all decisions of the Board shall be by majority vote of the members present. The presence of not less than 19 producer members and not less than five members other than producer members shall be required to constitute a quorum.

(2) The Board shall give to the Secretary the same notice of meetings of the Board as it gives to its members.

§ 989.3 *Raisin Administrative Committee*—(a) *Establishment.* A Raisin Administrative Committee is hereby established, to administer the terms and provisions hereof, consisting of 14 members of whom eight shall be producers, four shall be packers, one shall be a dehydrator, and one shall be a processor. For each member of the committee there shall be an alternate member who shall have the same qualifications as the member for whom he is the alternate. No person shall be selected or continue to serve as a member or alternate member of the committee who is not actively engaged either in the business of the group which he represents or as an officer, agent, or employee of a business unit engaged in such business.

(b) *Term of office.* Members and alternate members of the committee shall serve for terms of one year ending the last day of May, but each such member and alternate member shall continue to

serve until the respective successor is selected and has qualified. Nominations for initial members and alternate members of the committee shall be submitted by the Board to the Secretary not later than 15 calendar days after the establishment of the Board. Nominations for successor members and alternate members of the committee shall be submitted by the Board to the Secretary not later than the last day of May immediately preceding the crop year with respect to which they are submitted.

(c) *Nomination.* The producer members of the Board, and producer alternate members when acting as members, shall nominate from among such producer members and producer alternate members, eight persons for producer positions on the committee, one of whom shall be a producer who has produced raisin variety grapes which were used in the production of bleached raisins and seven of whom shall be producers of raisins other than bleached raisins, and an alternate for each such person. The packer members of the Board, and packer alternate members when acting as members, shall nominate from among such packer members and packer alternate members, four persons for packer member positions on the committee, and an alternate for each such person. The dehydrator members of the Board, and dehydrator alternate members when acting as members, shall nominate from among such dehydrator members and dehydrator alternate members, one person for the dehydrator member position on the committee, and an alternate for such person. The processor member, or processor alternate member when acting as member, shall nominate from among such processor member and processor alternate member, one person for the processor member position on the committee and an alternate for such person.

(d) *Failure to nominate.* In the event any of the groups entitled hereunder to submit nominees to the Secretary shall fail to do so within twenty calendar days after the time hereinbefore specified, the Secretary may select each such member or alternate member of the committee without regard to nominations, but each such selection shall be on the basis of the producer, packer, dehydrator, and processor representations set forth in paragraph (a) of this section.

(e) *Acceptance.* Each person selected by the Secretary as a member or as an alternate member of the committee shall, prior to serving on the committee, qualify by filing with the Secretary, within fifteen calendar days after being notified of such selection, a written acceptance thereof.

(f) *Alternate members.* An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence and (b), in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

(g) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member, of the committee to qualify, or in the event of the removal, resigna-

tion, disqualification, or death of any member or alternate member, a successor for such member's or alternate member's unexpired term shall be nominated and selected in the manner set forth in this section, insofar as such provisions are applicable. If nomination to fill any such vacancy is not made within twenty calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

(h) *Compensation and expenses.* The members of the Raisin Administrative Committee and the Raisin Advisory Board, and the alternate members when acting as members, shall serve without compensation, but shall be allowed their necessary expenses as approved by the committee.

(i) *Powers.* The committee shall have the following powers:

(1) To administer the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(j) *Duties.* The committee shall have, among other things, the following duties:

(1) To act as intermediary between the Secretary and any producer, packer, dehydrator, or processor;

(2) To keep minutes, books, and other records which will clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;

(3) To make, subject to approval by the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to raisins which are necessary in connection with performance of its official duties;

(4) To submit to the Secretary, at his request, such available information with respect to raisins and raisin variety grapes as he may request;

(5) To select from among its members a chairman and other officers, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(6) To appoint or employ such other persons as it may deem necessary, and to determine the salaries and define the duties of each such person;

(7) Prior to the beginning of each crop year, and not later than the fifteenth day of July, to submit to the Secretary a budget of its anticipated expenses and the proposed assessments for such crop year, together with a report thereon;

(8) To cause the books of the committee to be audited by one or more certified public accountants, at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request; and the report of each such audit shall show, among other things, the receipt and expenditure of funds pursuant hereto; and at least two copies of each such audit report shall be submitted to the Secretary; and

(9) To prepare monthly statements of the financial operations of the committee and make such statements, together with the minutes of the meeting of said committee, available for inspection by producers, packers, dehydrators, and processors at the office of such committee.

(k) *Obligation.* Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member of the committee, such member or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member shall be vested in his successor or, until such successor has been selected and has qualified, in the committee.

(1) *Procedure.* (1) All decisions of the committee shall be by majority vote of the members present. The presence of nine members shall be required to constitute a quorum.

(2) The committee shall give to the Secretary the same notice of meetings of the committee as it gives to its members.

§ 989.4 *Regulation—(a) Marketing policy.* (1) Prior to the beginning of each crop year and not later than July 5, the committee shall hold a meeting to formulate and adopt a proposed marketing policy for the marketing of raisins in the next succeeding crop year. Reasonable notice, through newspapers having general circulation in the area, shall be given to producers and handlers of each such meeting and each such meeting shall be open to them.

(2) Not later than ten days after the holding of each such aforesaid meeting, the committee shall prepare a detailed report setting forth the proposed marketing policy with respect to the handling of raisins during such crop year and shall file such report with the Secretary, together with all data and information used by the committee in the formulation of such proposed marketing policy, including the recommendations of the Raisin Advisory Board in respect thereto, if any are made. In the event the committee subsequently deems it advisable to modify such proposed marketing policy, because of changed demand or supply conditions, it shall file a report with the Secretary showing each modification and the reasons therefor.

(3) The committee shall give reasonable notice to producers and handlers of the contents of each such report submitted to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall

be available for examination by producers and handlers.

(b) *Recommendations for designation of percentages.* (1) If the committee concludes that the supply and demand conditions for raisins make it advisable to designate the percentage of raisins acquired by handlers in any crop year, which shall be (i) free tonnage, (ii) reserve tonnage, and (iii) surplus tonnage, respectively, it shall recommend such percentages to the Secretary. The committee may recommend such percentages separately for each varietal type or any group of varietal types. Such percentages for each varietal type or group of varietal types shall, when taken together, equal 100. Together with any such recommendation, the committee shall submit the findings and information on the basis of which such recommendation was made. In the event the committee subsequently deems it desirable to modify, suspend, or terminate any designation by the Secretary of such percentages, it shall submit to the Secretary its recommendation and the information on the basis of which such modification, suspension, or termination is recommended.

(2) In determining the percentages of raisins acquired by handlers in any crop year, to be designated as free tonnage, reserve tonnage, and surplus tonnage, respectively, the committee shall give due consideration to the following factors: (i) the supply of raisins, comprising the estimated carryover of raisins from preceding crop years held by producers and handlers and the estimated tonnage of raisins to be produced in such crop year; (ii) the current prices being received for raisins by producers and handlers; (iii) the trend and level of consumer income; and (iv) present and prospective price trends, as well as other pertinent economic and marketing factors relative to raisins. Such percentages shall not apply to raisins produced prior to August 14, 1949, and held by or for the account of a producer.

(3) The committee shall give reasonable notice, through newspapers having general circulation in the area, to handlers and producers, of each meeting to consider the recommendation of the percentages to be designated pursuant to this section, and of each recommendation submitted to the Secretary.

(4) The first recommendation with respect to any crop year beginning after August 14, 1949, shall be filed with the Secretary not later than the preceding July 15.

(c) *Regulation by the Secretary.* (1) Whenever the Secretary finds from the recommendations and supporting information supplied by the committee, and any other available information, that to designate the percentages of raisins acquired by handlers during such crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively, would tend to effectuate the declared policy of the act, he shall so designate the percentage of raisins acquired by handlers during such crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively. Any such percentages designated

with respect to the crop year ending on August 14, 1950, shall not apply to raisins produced during the preceding crop year and held by or for the account of a producer. In the event the Secretary finds from the recommendations and supporting information supplied by the committee and any other available information, that modification, suspension, or termination of any such designation will tend to effectuate the declared purpose of the act he shall so modify, suspend, or terminate such designation.

(2) The Secretary may designate separately for each varietal type or group of varietal types the percentages of such varietal type or group of varietal types acquired by handlers in any crop year which shall be considered as free tonnage, reserve tonnage, and surplus tonnage.

(3) The Secretary shall notify the committee of each such percentage so designated. The committee shall give reasonable notice thereof to all handlers and producers, including, but not limited to, written notice by registered mail to all handlers on record with the committee.

(d) *Free tonnage.* The percentage of each varietal type or groups of varietal types acquired by a handler which pursuant to the provisions hereof, is designated as "free tonnage", may be disposed of by him free of any restrictions hereunder.

(e) *Reserve tonnage.* (1) Reserve tonnage acquired by each handler shall be held by him for the account of the committee, and subject to the restrictions hereof.

(2) Each handler shall hold in proper storage all reserve tonnage acquired by him until title has been transferred to him or until delivery to another person has been accomplished pursuant to instructions of the committee. The committee may, at any time, require a handler to deliver to it, or to any one designated by it at such handler's warehouse, after reasonable notice, part or all of the reserve tonnage held by him. The committee may require that such delivery consist of natural condition raisins or it may arrange for such delivery to consist of packed raisins.

(3) Reserve tonnage delivered by any handler to the committee, or any person designated by it, whether in the form of natural condition or packed raisins, shall meet such minimum grade requirements as may be prescribed by the committee with the approval of the Secretary. Pending the prescribing of such minimum requirements, reserve tonnage delivered by any handler to the committee, or any person designated by it, in packed form shall meet the minimum requirements for the respective varieties and types set forth in Exhibit B which is attached hereto and made a part hereof.

(4) The committee may dispose of reserve tonnage by sale, gift, or otherwise: *Provided*, That no sale of reserve tonnage consisting of bleached raisins may be made by the committee prior to November 1 of the crop year in which it was acquired by handlers and no sale of reserve tonnage consisting of raisins other than bleached raisins may be made by

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the committee prior to December 1 of the crop year in which it was acquired by handlers.

(5) Effective on and after June 1 of any crop year, all reserve tonnage not disposed of by the committee prior to that date, shall be subject to the provisions hereinafter provided with respect to the sale and disposition of surplus tonnage.

(6) Prior to June 1, reserve tonnage of any varietal type or group of varietal types shall not be sold at a price below that which the committee concludes reflects the price received by producers for free tonnage of the same varietal type or group of varietal types purchased by handlers at the time of any offer for sale of reserve tonnage by the committee. In the event that no such purchases of free tonnage were made by handlers at such time, the committee may establish the minimum price of any varietal type or group of varietal types of reserve tonnage on the basis of (1) the prices received by producers for other varietal types at such time, (ii) the prices received by handlers for such varietal type or group of varietal types in packed form, or (iii) from other available price information. Each price so established by the committee governing the sale of reserve tonnage to any handler shall be approved by the Secretary prior to such sale: *Provided*, That, the foregoing provisions of this paragraph shall not apply to any reserve tonnage on which a loan has been obtained nor to reserve tonnage which has become subject to subparagraph (5) of this paragraph.

(7) In connection with any offer by the committee to sell reserve tonnage to handlers prior to June 1, each handler shall be given the first right to purchase his pro rata share of such offer: *Provided*, That, all reserve tonnage disposed of by him pursuant to paragraph (g) of this section shall be included in such pro rata share. In the event that any handler declines or fails to purchase any or all of such share, the remaining portion thereof shall be reoffered by the committee to all handlers who purchased all of their respective shares of such offer, in proportion to such respective purchases. Any balance remaining unsold after such reoffer shall be withdrawn from the particular offer to sell.

(8) Handlers shall be paid for receiving and storing reserve tonnage held for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary.

(9) The net proceeds from the disposition of reserve tonnage of each varietal type or group of varietal types shall be distributed by the committee to producers on the basis of the volume of their respective contribution to the reserve tonnage of such varietal type or group of varietal types. Such distribution in connection with the reserve tonnage contributed by a cooperative marketing association shall be made to such association.

(10) Additional procedures relating to the disposition of reserve tonnage not inconsistent with the provisions herein specified may be established from time to

time by the committee with the approval of the Secretary.

(f) *Surplus tonnage.* (1) Surplus tonnage acquired by each handler shall be held by him for the account of the committee, and subject to the restrictions hereof.

(2) Each handler shall hold in proper storage all surplus tonnage acquired by him until title has been transferred to him or until delivery to another person has been accomplished pursuant to instructions of the committee. The committee may, at any time, require a handler to deliver to it, or to any person designated by it, at such handler's warehouse, after reasonable notice, part or all of the surplus tonnage held by him. The committee may require that such delivery consist of natural condition raisins or it may arrange for such delivery to consist of packed raisins.

(3) Surplus tonnage delivery by any handler to the committee, or any person designated by it, whether in the form of natural condition or packed raisins, shall meet such minimum grade requirements as may be prescribed by the committee with the approval of the Secretary. Pending the prescribing of such minimum requirements, surplus tonnage delivered by any handler to the committee, or any person designated by it, in packed form shall meet the minimum requirements for the respective varieties and types set forth in Exhibit B which is attached hereto and made a part hereof.

(4) The committee may dispose of surplus tonnage by sale, or otherwise: *Provided*, That, such disposition shall be limited to outlets which the committee finds will not interfere significantly with the marketing of raisins. The committee shall dispose of all surplus tonnage held by it or for its account on or before May 1, by not later than May 1 of each crop year and all reserve tonnage held by it or for its account on or before that date, by not later than August 1 of such crop year: *And provided further*, That, for any raisins which become surplus tonnage after May 1 of such crop year, the committee shall dispose of such surplus tonnage within 60 calendar days after the date such tonnage becomes surplus tonnage, and for any raisins which become reserve tonnage after August 1 of such crop year, the committee shall dispose of such reserve tonnage within 60 calendar days after the date such tonnage becomes reserve tonnage.

(5) In connection with any offer of surplus tonnage by the committee for sale to handlers or for contract packing by handlers, each handler shall be given the first right to purchase or pack his pro rata share of such offer: *Provided*, That, all surplus tonnage disposed of by him pursuant to paragraph (g) of this section shall be included in such pro rata share. In the event that any handler declines or fails to purchase, or contract for packing, any or all of such share, the remaining portion of such share shall be reoffered by the committee to all handlers who purchased, or contracted for packing, all of their respective shares of such offer, in proportion to such respective shares.

(6) Nothing in subparagraph (5) or (6) of this paragraph shall restrict, or be deemed to restrict, any sale by the committee to the United States Government or any agency thereof.

(7) Handlers shall be paid by the committee for receiving and storing surplus tonnage held for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary.

(8) The net proceeds from the disposition of surplus tonnage of each varietal type or group of varietal types shall be distributed by the committee to producers on the basis of the volume of their respective contributions to such surplus tonnage of each varietal type or group of varietal types. Such distribution in connection with the surplus tonnage contributed by a cooperative marketing association shall be made to such association.

(9) Additional procedures relating to the disposition of surplus tonnage not inconsistent with the provisions herein specified may be established, from time to time, by the committee with the approval of the Secretary.

(g) *Possession or control of reserve and surplus tonnage.* Each handler is required to have in his possession or under his control, at all times, a quantity of raisins equal to the aggregate quantity of reserve tonnage and surplus tonnage referable hereunder to his acquisitions, except that the committee shall have the authority to waive such requirement for any period ending not later than November 15. The committee may establish other reasonable and necessary terms and conditions upon which such waiver may be granted and such terms and conditions may include, but are not limited to, requiring a performance bond from handlers.

(h) *Damaged raisins.* In the event the committee concludes, and such conclusion is confirmed by the Secretary, that a portion of the raisin pack has been damaged by rain or other natural causes, the committee may, with the approval of the Secretary, establish regulations and procedures that will permit the disposition of such damaged raisins free from the provisions hereof.

§ 989.5 Reports and books and records

(a) *Report of carryover.* On or before July 5 of each crop year each handler shall file with the committee a written report, under oath, of all natural condition raisins and packed raisins, separately, held by him on the first day of July showing the quantity of each varietal type, and the location thereof.

(b) *Other reports.* Each handler shall file with the committee a certified report, covering each week during any period in which reserve and surplus percentages are in effect, showing, with respect to his acquisitions of each varietal type during the week covered by each such report, (1) the total quantity acquired, (2) the reserve and surplus tonnages, separately, referable to such acquisitions which are on his premises or under his control, (3) the location of such reserve and surplus tonnages, and (4) cumulative totals of such acquisitions from the beginning of the then current

crop year to and including the end of such week. Each such weekly report shall be filed not later than Wednesday of the week following the week which is covered by such report. Upon request of the committee, made with the approval of the Secretary, every handler shall furnish to the committee, in such manner and at such times as it prescribes, such other information as will enable the committee to perform its duties and to exercise its powers hereunder.

(c) *Records.* Each handler shall maintain such records of all raisins acquired by him as the committee may prescribe. Such records shall include, but are not limited to, the source, total acquisition, total sales, and total other disposition of each varietal type or group of such types regulated hereunder.

(d) *Verification of reports.* For the purpose of checking and verifying such reports made by handlers, the committee, through its duly authorized agents, shall have access to any premises wherever raisins may be held by a handler, and, at any time during regular business hours, shall be permitted to inspect any raisins so held by such handler and any and all records of such handler with respect to the holding or disposition of all raisins which may be held or which may have been disposed of by him. Each handler shall furnish all labor and equipment necessary to facilitate such inspections as the committee may make of his holding of any such raisins. Each handler shall store reserve and surplus tonnage raisins in such a manner as to facilitate inspection and shall maintain adequate storage records which will permit accurate identification with respect to the respective lots of raisins held or theretofore disposed of.

§ 989.6 Expenses and assessments—

(a) *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the committee and the Board and for such purposes as the Secretary, pursuant to the provisions hereof, determines to be appropriate. The recommendation of the committee as to the expenses for each such crop year, together with all data supporting such recommendation, shall be submitted to the Secretary on or before July 15 preceding the crop year in connection with which such recommendation is made. The funds to cover such expenses shall be acquired by levying assessments as hereinafter provided.

(b) *Assessments.* Each handler shall pay to the committee, on demand, the sum of twenty cents (20¢) for each ton of raisins acquired by him after the effective date hereof. At any time during or after a crop year the Secretary may increase the rate of assessment to apply to all raisins acquired during such crop year to secure sufficient funds to cover any later finding by the Secretary relative to the expense of the committee. Each handler shall pay such additional assessment to the committee on demand. In order to provide funds to carry out the functions of the committee and the Board, any handler may make advance

payments to the committee to be credited toward such assessments as may be levied hereunder against the respective handler during the then current crop year.

(c) *Expenses of reserve and surplus tonnage operations.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and are likely to be incurred by the committee in discharging its obligations, pursuant hereto, with respect to reserve and surplus tonnage. All such expenses shall be deducted from the proceeds obtained by the committee from the sale or other disposal of such reserve and surplus tonnage.

(d) *Accounting.* (1) If, at the end of any crop year, the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, each handler's share of such excess shall be credited to him against the operations of the following crop year, unless such handler demands payment thereof, in which case his share shall be paid to him.

(2) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses.

(e) *Funds.* All funds received by the committee pursuant to the provisions hereof shall be used solely for the purposes herein authorized and shall be accounted for in the manner herein provided. The Secretary may, at any time, require the committee and its members and alternate members to account for all receipts and disbursements.

§ 989.7 *Personal liability.* No member or alternate member of the committee nor any employee or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty.

§ 989.8 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 989.9 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 989.10 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof and during any period of suspension hereof except with respect to acts done under and during the existence hereof.

§ 989.11 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 989.12 *Effective time and termination—*(a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions hereof, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers of raisins who during the preceding marketing year have been engaged in the production for market of raisins in the State of California: *Provided,* That, such majority have during such period produced for market more than 50 percent of the volume of such raisins produced for market within said State; but such termination shall be effective only if announced on or before August 14 of the then current marketing year.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.*

(1) Upon the termination of the provisions hereof, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all funds and property then in the possession or under the control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the joint trustees pursuant hereto.

(3) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed

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upon the members of the said committee and upon said joint trustees.

§ 989.13 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person, with respect to any such violation.

§ 989.14 *Amendments.** Amendments hereto may be proposed from time to time, by any party hereto or by the committee. After due notice and hearing and upon the execution of the proposed amendments by any two or more handlers, who during the preceding crop year handled not less than two-thirds of the raisins handled during such crop year, the Secretary may approve such amendments and they shall become effective at such time as the Secretary may designate.

§ 989.15 *Counterparts.** This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

§ 989.16 *Additional parties.** After the effective date hereof, any handler may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 989.17 *Order with marketing agreement.** Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of raisins in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.

Copies of this notice of hearing may be obtained from the Hearing Clerk, United States Department of Agriculture, Room 1846, South Building, Washington 25, D. C., or the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, P. O. Box 775, Berkeley 1, California.

Dated November 18, 1948, Washington, D. C.

[SEAL]

JOHN I. THOMPSON,
Assistant Administrator.

EXHIBIT A—PRODUCER MEMBERS OF THE RAISIN
ADVISORY BOARD

Three members for Kings County,
Five members for Tulare County,

Three members for Kern County and all counties in California south of Kern County,
Three members for Madera County,
Three members for Merced County,
Three members for Stanislaus County,
One member for San Joaquin County and all counties in California north of San Joaquin County.

One member for each of the following districts in Fresno County:

CLOVIS DISTRICT 1

All of 12-20 in Fresno County, all of 11-20 and 11-21 in Fresno County, all of 12-21, 12-22, Sections 1, 2, 11, 12, 13, 14, of 13-20, Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36 of 13-21, Sections 4, 5, 6, 7, 8, 9, 18, 19, 30 and 31 of 13-22.

KERNAN DISTRICT 2

All of 13-14, 13-15, 13-16, 13-17, in Fresno County and Sections 30 and 31 of 13-18, all of 14-14, 14-15, 14-16, 14-17, 14-18 and the West two-thirds of 14-19, all of 15-14, 15-15, 15-16, 15-17, 15-18.

BIOLA DISTRICT 3

All of 13-18 lying in Fresno County except Sections 30 and 31, all of 13-19 lying in Fresno County and all of 1319 except Sections 25, 26, 27, 28, 33, 34, 35, and 36.

FRESNO DISTRICT 4

Sections 25, 26, 27, 28, 33, 34, 35 and 36 in Section 13-19; all of 13-20 except Sections 1, 2, 11, 12, 13, and 14, Sections 19, 20, 29, 30, 31, 32 of 13-21, the East two-thirds of 14-19, all of 14-20, and Sections 5, 6 and 7 of 14-21.

SANGER DISTRICT 5

The East half and Sections 16, 17, 20, 21, 28, 29, 32, 33 of 13-22, all of 13-23 lying West of East Channel of Kings River, all of 14-23 lying West of East Channel of Kings River and Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 35 and 36 of 14-22.

LONE STAR DISTRICT 6

All of 14-21 except Sections 5, 6, and 7 and 36.

EASTON-OLEANDER DISTRICT 7

The North half of 15-19 and the North two-thirds of 15-20 except Section 19, and Sections 6, 7, 18, 19 of 15-21.

FOWLER DISTRICT 8

South half of Section 1 and all of Sections 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 26, 27, 28, 29, and 33 of 15-21 and Section 18-15-22.

DEL REY DISTRICT 9

Sections 29, 30, 31, 32, 33, and 34 of 14-22 and Section 36 of 14-21 and N½ of Section 1-15-21 and all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 16 and 17 of 15-22.

PARLER DISTRICT 10

All of Section 4 East of Kings River, Sections 5, 6, 7, 8, and all of Sections 9 and 16 and 21 East of Kings River and Sections 17, 18, 19, 20, 29, 30, 31, 32 in 15-23, Sections 1, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, and 35 and 36 of 15-22 and Sections 5 and 6 of 16-23.

REEDLEY DISTRICT 11

All of 13-24 East of East Channel of Kings River, all of 13-23 East of East Channel of Kings River, all of 14-23 East of East Channel of Kings River, all of 14-24, 14-25 and all of 15-23 East of East Channel of Kings River, Sections 28 and 33 West of Kings River in 15-23 and all of 15-24.

KINGSBURG DISTRICT 12

Sections 11, 12, 13, 14, 15, 21, 22, 23, and portion of 24, 25, and 26 and Sections 27, 28,

33, and portion of Section 34 of 16-22, Section 7 and portion of Sections 8 and 18 of 16-23. Portion of 4, 5, and 8 of 17-22.

SELMA DISTRICT 13

Sections 25, 34, 35, and 36 of 15-21, Sections 19, 20, 28, 29, and 30, 31, 32, 33, 34, of 15-22, Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 29, 30, 31, 32, of 16-22 and the East half of 16-21 and the North third of 17-21 and Sections 6 and 7-17-22, Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and part of 24 in 17-21.

MONMOUTH DISTRICT 14

Sections 25, 26, 27, 34, 35, 36 of 15-20, Sections 30, 31, 32 of 15-21, the West half of 16-21 and the East half of 16-20.

CARUTHERS DISTRICT 15

All of South half of 15-19, Sections 19, 28, 29, 30, 31, 32, 33 of 15-20 all of 16-15, 16-16, 16-17, 16-18, 16-19 and the West half of 16-20, all of 17-16, 17-17, 17-18, 17-19 and 17-20, 18-16, 18-17, 18-18 and 19-17, 19-18, 20-17, and all of 20-18 north of Fresno County line.

EXHIBIT B—MINIMUM GRADE REQUIREMENTS
FOR PROCESSED RAISINS

DEFINITION

Processed raisins are dried grapes of the *Vinifera* varieties Thompson Seedless (Sultanina), Muscat of Alexandria, Muscatel, Gordo Blanco, Sultana, Black Corinth, or White Corinth which have been properly stemmed, capstemmed, and cleaned.

TYPES AND VARIETIES

Type I Thompson Seedless (Sultanina):

- (a) Unbleached (sun-dried).
- (b) Golden Bleached.

Type II Muscat:

- (a) Seeded (seeds removed).
- (b) Unseeded (loose).
- (c) Soda Dipped Unseeded (Valencia).

Type III Sultana.

Type IV Zante Currants:

- (a) Black Zante (Black Corinth).
- (b) White Zante (White Corinth).

MOISTURE

Type IIa (Muscat Seeded Raisins) shall contain not more than 19 percent, by weight, of moisture. All other types of raisins specified above shall contain not more than 18 percent, by weight, of moisture.

GRADE

Thompson Seedless raisins shall possess similar varietal characteristics, possess a fairly good typical color in Thompson Seedless Unbleached raisins, show development characteristic of raisins prepared from fairly well-matured grapes, and meet the following requirements:

Not more than 35 capstems and not more than 3 pieces of stem per pound of raisins may be present;

Not more than 3 percent by weight of raisins may be poorly developed, blowovers;

Not more than 5 percent by weight of raisins may be damaged;

Not more than 15 percent by weight of raisins may be visibly sugared; and

Not more than 5 percent by weight of raisins may be affected by mold, decay, fermentation, insect infestation (no live insects are permitted), imbedded dirt, or other foreign material: *Provided*, That not more than 2 percent by weight may be affected by decay.

Muscat raisins shall possess similar varietal characteristics, possess a fairly good typical color with not more than 20 percent by weight of dark reddish-brown berries in Muscat Soda Dipped Unseeded (Valencia) raisins, show development characteristic of raisins prepared from fairly well-matured grapes, and meet the following requirements:

Not more than 20 capstems and not more than 3 pieces of stem per pound of raisins may be present;

Not more than 20 seeds per pound of raisins in Muscat Seeded raisins may be present;

Not more than 3 percent by weight of raisins may be poorly developed, blowovers; Not more than 5 percent by weight of raisins may be damaged;

Not more than 15 percent by weight of raisins may be visibly sugared; and

Not more than 5 percent by weight of raisins may be affected by mold, decay, fermentation, insect infestation (no live insects are permitted), imbedded dirt, or other foreign material: *Provided*, That not more than 2 percent by weight may be affected by decay.

Sultana raisins shall possess similar varietal characteristics, possess a fairly good typical color, show development characteristic of raisins prepared from fairly well-matured grapes, and meet the following requirements:

Not more than 65 capstems and not more than 3 pieces of stem per pound of raisins may be present;

Not more than 3 percent by weight of raisins may be poorly developed, blowovers;

Not more than 5 percent by weight of raisins may be damaged;

Not more than 15 percent by weight of raisins may be visibly sugared; and

Not more than 5 percent by weight of raisins may be affected by mold, decay, fermentation, insect infestation (no live insects are permitted), imbedded dirt, or other foreign material: *Provided*, That not more than 2 percent by weight may be affected by decay.

Zante currants shall be generally pliable, generally meaty and plump, fairly well developed, possess a good, typical color, and meet the following requirements:

Not more than 2 percent by weight of capstems and not more than 3 pieces of stem per pound may be present;

Not more than 2 percent by weight may be poorly developed, hard, immature berries, blowovers, or shells;

Not more than 3 percent by weight may be damaged;

Not more than 10 percent by weight may be visibly sugared; and

Not more than 2 percent by weight may be "B" berries.

COLOR OF THOMPSON SEEDLESS SULFUR BLEACHED AND GOLDEN BLEACHED RAISINS

Extra choice color. Fairly uniform amber color which may range from light yellow or greenish yellow to amber or greenish amber and with not more than 10 percent by weight of definitely dark berries.

Explanation of terms. "Capstems" mean small woody stems exceeding $\frac{1}{8}$ inch in length which attach the raisins to the branches of the bunch.

A "piece of stem" means a portion of the branch or main stem.

"Seeds" refer to the whole, fully developed seeds which have not been removed during the processing of Type II (a), Muscat Seeded raisins.

"Poorly developed, blowovers" refers to berries that are immature, contain very little meat, are light in weight, and those that have very coarse wrinkles.

"Damaged" raisins means raisins affected by insect injury or injury from sunburn, scars, mechanical or other means which seriously affects the appearance, edibility, keeping or shipping quality of the raisins. In Type II (a), Muscat Seeded raisins, mechanical injury resulting from normal seeding operations is not considered damage.

"Visibly sugared" means the accumulation of crystallized fruit sugars on or near the surface which is readily apparent.

"Mold" means mold filaments or spores (often characterized by a condition wherein the skin of the raisin appears to have been dissolved, leaving a slimy or sticky appearance, and often resulting in a positive reaction when submerged in a 3 percent hydrogen peroxide solution).

"Affected by insect infestation" means that the raisins show the presence of insects, insect fragments, or excreta. No live insects are permitted.

"Plump and meaty" means that the currants are not thin or angular with coarse wrinkles.

"B" berries" mean currants affected with mold or decay, which show a positive reaction when immersed in a 3 percent hydrogen peroxide solution.

The foregoing requirements are those specified in United States Standards for Grades of Processed Raisins, with respect to Grade C for raisins other than Zante currants, and in United States Standards for Grades of Dried Zante Currants, with respect to Grade B for Zante currants.

[F. R. Doc. 48-10196; Filed, Nov. 22, 1948; 8:53 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Southwestern Power Administration

[Order 2498]

DUTIES OF ASSISTANT ADMINISTRATOR, ACTING ADMINISTRATOR, AND ACTING ASSISTANT ADMINISTRATOR

SECTION 1. Assistant Administrator. The Assistant Administrator of the Southwestern Power Administration shall assist the Administrator generally in the performance of his duties and functions, and, under the supervision and direction of the Administrator, shall be responsible for the administrative functions of the Administration.

Sec. 2. Acting Administrator. (a) The Assistant Administrator of the Southwestern Power Administration shall perform the duties and exercise the powers of the Administrator in case of the death, resignation, absence, or sickness of the Administrator.

(b) The Chief of the Division of Operations of the Southwestern Power Administration shall perform the duties and exercise the powers of the Administrator in case of the death, resignation, absence, or sickness of the Administrator and the Assistant Administrator.

(c) The Chief of the Division of Engineering of the Southwestern Power Administration shall perform the duties and exercise the powers of the Administrator in case of the death, resignation, absence, or sickness of the Administrator

or the Assistant Administrator, and the Chief of the Division of Operations.

(d) The Chief Counsel of the Southwestern Power Administration shall perform the duties and exercise the powers of the Administrator in case of the death, resignation, absence, or sickness of the Administrator, the Assistant Administrator, the Chief of the Division of Operations, and the Chief of the Division of Engineering.

(e) The Controller of the Southwestern Power Administration shall perform the duties and exercise the powers of the Administrator in case of the death, resignation, absence, or sickness of the Administrator, the Assistant Administrator, the Chief of the Division of Operations, the Chief of the Division of Engineering, and the Chief Counsel.

(f) The Chief of the Division of Administration and Personnel of the Southwestern Power Administration shall perform the duties and exercise the powers of the Administrator in case of the death, resignation, absence, or sickness of the Administrator, the Assistant Administrator, the Chief of the Division of Operations, the Chief of the Division of Engineering, the Chief Counsel, and the Controller.

SEC. 3. Acting Assistant Administrator. The Administrator of the Southwestern Power Administration may designate officials of the Administration to serve as Acting Assistant Administrator in case of the death, resignation, absence,

or sickness of the Assistant Administrator.

J. A. KRUG,
Secretary of the Interior.

NOVEMBER 15, 1948.

[F. R. Doc. 48-10169; Filed, Nov. 22, 1948; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

OFFICE OF HEARING EXAMINERS

AMENDMENT TO ORGANIZATIONAL STATEMENT

Pursuant to the authority vested in me by the Administrative Procedure Act (Secs. 3, 12, 60 Stat. 238, 244) the statement of the Central Organization of the Office of Hearing Examiners (formerly § 2209.1, Chapter XXI, Title 7) is amended to read as follows:

The address of the Office of Hearing Examiners is United States Department of Agriculture, Washington 25, D. C. The office is composed of the hearing examiners who preside at hearings subject to sections 7 and 8 of the Administrative Procedure Act (60 Stat. 237), and perform related duties, and their assistants. The work of the office is supervised by a Chief Hearing Examiner who designates the hearing examiner to preside at the hearing and perform such duties in specific proceedings. Among the hearings over which hearing examiners preside are hearings in proceedings under the Agricultural Marketing Agreement Act (7 U. S. C. 601 et seq.), rate making and

disciplinary proceedings under the Packers and Stockyards Act, 1921 (7 U. S. C. 181 et seq.), disciplinary proceedings under the Commodity Exchange Act (7 U. S. C. 1 et seq.), the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499a et seq.), and the Federal Seed Act (7 U. S. C. 1551 et seq.), and proceedings under the Grain Standards Act (39 Stat. 492; 7 U. S. C. 71 et seq.) upon request by the Administrator of the Production and Marketing Administration.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

November 17, 1948.

[F. R. Doc. 48-10171; Filed, Nov. 22, 1948;
8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

WHITE MOUNTAIN BROADCASTING CO.

PUBLIC NOTICE CONCERNING THE PROPOSED TRANSFER OF CONTROL¹

The Commission hereby gives notice that on November 8, 1948 there was filed with it an application (BTC-696) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of White Mountain Broadcasting Company, licensee of station WMOU, Berlin, New Hampshire from Arthur C. Bell, Leon C. Bell, Arthur J. Bergeron, Carl E. Morin, George Brassard, Willard D. Buber and Albert N. Morris to John W. Guider. The proposal to transfer control arises out of a contract of October 5, 1948 pursuant to which Arthur C. Bell, Leon C. Bell, Arthur J. Bergeron, Carl E. Morin, George Brassard, Willard D. Buber and Albert N. Morris will sell and John W. Guider will buy 305 shares of the common stock of the licensee corporation, for the sum of \$22,875.00. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on November 8, 1948 that starting on November 10, 1948 notice of the filing of the application would be inserted in the Berlin Reporter, a newspaper of general circulation at Berlin, New Hampshire in conformity with the above section and the Commission's direction to the applicant of October 12, 1948.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from November 10, 1948, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

¹ Section 1.321, Part 1, Rules of Practice and Procedure.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. A. 310 (b))

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-10189; Filed, Nov. 22, 1948;
8:51 a. m.]

WKLV

PUBLIC NOTICE CONCERNING THE PROPOSED ASSIGNMENT OF LICENSE¹

The Commission hereby gives notice that on September 1, 1948 there was filed with it an application (BAL-796) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of station WKLV, Blackstone, Virginia from Frank W. Wagner to Nottoway Broadcasting Company, Incorporated. The proposal to assign the license arises out of a contract of August 19, 1948 pursuant to which Frank W. Wagner proposed to assign station WKLV and its assets to Nottoway Broadcasting Company, Incorporated, in return for 145 shares (approximately 35%) of \$50 par value, common voting stock of the assignee corporation and the assumption by the latter of the outstanding liabilities of the station. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321, which sets out the procedure to be followed in such cases, including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on November 10, 1948 that starting on September 24, 1948 notice of the filing of the application would be inserted in the Courier-Record, a newspaper published at Blackstone-Crewe, Virginia, and in the Richmond Times Dispatch, a newspaper of general circulation at Richmond, Virginia in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from September 24, 1948 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-10190; Filed, Nov. 22, 1948;
8:52 a. m.]

KUGN AND KUGN-FM

PUBLIC NOTICE CONCERNING THE PROPOSED ASSIGNMENT OF LICENSE¹

The Commission hereby gives notice that on November 4, 1948 there was filed with it an application (BAL-793) for its

consent under section 310 (b) of the Communications Act to the proposed assignment of license for AM station KUGN and permit for KUGN-FM, Eugene, Oregon, from Valley Broadcasting Company to KUGN, Inc. The proposal to assign arises out of contracts of August 14 and September 29, 1948 pursuant to which B. N. Phillips has agreed to sell his one-half interest in the assignor partnership to O. E. Berke and P. R. Berke for \$50,000 in cash plus 5% interest from August 1, 1948. Thereafter the partnership will convey all partnership assets to KUGN, Inc. in return for all the capital stock of the assignee. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on November 4, 1948 that starting on November 4, 1948 notice of the filing of the application would be inserted in the Eugene Register Guard a newspaper of general circulation at Eugene, Oregon in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from November 4, 1948 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-10191; Filed, Nov. 22, 1948;
8:52 a. m.]

KCSB

PUBLIC NOTICE CONCERNING THE PROPOSED ASSIGNMENT OF LICENSE¹

The Commission hereby gives notice that on November 5, 1948, there was filed with it an application (BAL-794) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of KCSB, San Bernardino, California from Woodrow Miller, d/b as San Bernardino Valley Broadcasters, to Town Crier Broadcasters, Inc. The proposal to assign the license arises out of a contract of October 1, 1948, pursuant to which Woodrow Miller has agreed to sell all personal property and broadcasting equipment, including the good will, used in the operation of KCSB, to Town Crier Broadcasters, Inc. for the sum of \$19,000 payable as follows: \$1,000 upon the execution of the contract; \$8,000 within thirty days after approval of the Federal Communications Commission is obtained; and the balance of \$10,000, secured by a mortgage on the equipment and prop-

erty of KCSB, in monthly installments of \$100 with 4% interest on the unpaid balance. As part of the contract, Seller agrees to lease to Buyer the land and buildings used in the operation of KCSB for a monthly payment of \$83.33, plus 2% of the net earnings of the station before taxes. The lease will be for five years with Buyer holding an option to renew for an additional five years. Seller also agrees to make improvements in the land and buildings up to \$3,000 and Buyer agrees to pay an increased monthly rental of 1% of the cost of the improvements beginning the first month after the improvements have been made. The contract also provides that Seller will satisfy all existing accounts payable due at the time of closing and that Buyer will exercise diligence in attempting to collect the outstanding accounts receivable and to turn over 75% thereof to Seller, retaining 25% for self. In the event Buyer is unwilling or unable to go through with the sale after approval of the Federal Communications Commission is obtained, the down payment of \$1,000 may be retained by Seller as liquidated damages. In the event the assignment is consummated and Buyer thereafter defaults in payments due under the contract, Buyer agrees to seek permission of the Federal Communications Commission to retransfer the station to Seller. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on November 5, 1948, that starting on November 10, 1948, notice of the filing of the application would be inserted in a newspaper of general circulation at San Bernardino, California in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from November 10, 1948, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract. (Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. A. 310 (b))

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-10192; Filed, Nov. 22, 1948;
8:52 a. m.]

INTERSTATE COMMERCE
COMMISSION

[MC-C-985]

PERISHABLE PROTECTIVE SERVICES AND
CHARGES

NOTICE OF HEARING

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 21st day of September A. D. 1948.

No. 228—3

The said division having under consideration the matter of charges for perishable protective service and of the failure of motor common carriers to establish and maintain charges for perishable protective service separate and apart from the line-haul rates and charges in connection with the transportation, in interstate or foreign commerce, of commodities that require perishable protective service between points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, on the one hand, and, on the other hand, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted by the said division, upon its own motion, into and concerning the reasonableness and lawfulness otherwise of the charges for perishable protective service maintained by motor common carriers of property, and of the regulations and practices of motor common carriers of property insofar as said carriers do not publish and maintain charges for perishable protective service separate and apart from their line-haul rates, applicable to the transportation, in interstate or foreign commerce, of property that requires perishable protective service between the points referred to in the preceding paragraph of this order, with a view to making such findings and orders in the premises as the facts and circumstances shall appear to warrant;

It is further ordered, That all motor common carriers of property subject to the Interstate Commerce Act which participate in the transportation of property between the points referred to in this order, be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon each of said respondents; and that notice to the public be given by posting a copy of this order in the Office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of Federal Register, Washington, D. C.

And it is further ordered, That this proceeding be, and it is hereby, assigned for hearing before Examiner Henry C. Lawton on the 11th day of January, A. D. 1949, at 9:30 o'clock a. m., United States standard time, at the Hotel Cleveland, Cleveland, Ohio.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 48-10173; Filed, Nov. 22, 1948;
8:48 a. m.]

SECURITIES AND EXCHANGE
COMMISSION

[File No. 54-75, 70-726]

COMMONWEALTH & SOUTHERN CORP. (DEL.)

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its

office in the city of Washington, D. C. on the 17th day of November, 1948.

Notice is hereby given that an application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 (the "act") by the Commonwealth & Southern Corporation (Commonwealth), a registered holding company. The applicant-declarant designates sections 11 and 12 (c) of the act and Rule U-46 thereunder as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than November 29, 1948 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law raised by the said application-declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after November 29, 1948 such application-declaration, as filed or as amended, may be permitted to become effective or may be granted as provided in Rule U-23 of the rules and regulations promulgated pursuant to said act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application-declaration which is on file in the office of the Commission, for a statement of the transaction therein proposed which is summarized as follows:

Commonwealth proposes, subject to the approval of the Commission, to pay a dividend of \$1.50 per share or an aggregate of approximately \$2,161,870 on the shares of its outstanding preferred stock. The dividend was declared on November 16, 1948, and is payable on the 28th day after the date of the order of this Commission permitting such payment, or on January 3, 1949, whichever date is the later, to stockholders of record at the close of business on the 10th day after the date of such order (or if such 10th day is not a business day, the first business day following such 10th day) or on December 10, 1948, whichever date is the later.

The applicant-declarant requests that the Commission's order be issued herein on or before December 1, 1948 and that it become effective forthwith upon issuance.

By the Commission.

[SEAL] NELLIE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10176; Filed, Nov. 22, 1948;
8:48 a. m.]

[File No. 70-1960]

NORTH AMERICAN CO. AND UNION ELECTRIC
CO. OF MISSOURI

MEMORANDUM OPINION AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 12th day of November A. D. 1948.

The hearing officer who presided at the hearings in these proceedings has certified to us for decision the question whether the applicants-declarants herein are entitled to have the hearing officer prepare a recommended decision.

These proceedings involve a joint application-declaration by the North American Company ("North American"), a registered holding company, and its subsidiary, Union Electric Company of Missouri ("Union"), a registered holding company and an electric utility company, filed pursuant to applicable provisions of the Public Utility Holding Company Act of 1935 and the rules and regulations promulgated thereunder. The application-declaration proposes a reclassification of the authorized common stock of Union so as to increase the aggregate number of such shares from 3,300,000 to 12,000,000. Thereupon Union proposes to issue and North American proposes to acquire 9,782,500 shares of the new common stock in exchange for 2,795,000 shares representing the presently outstanding common stock of Union, all of which is owned by North American. Since the publicly held preferred stock of Union has 12.06% of the voting power in Union, the stock of Union held by North American represents 87.94% of the voting power. It is asserted that the proposed transactions would increase North American's voting power to 96.2% and enable North American to file consolidated federal income tax returns for Union and its subsidiaries, thereby effecting a reduction in federal income taxes payable by the companies.

Applicants-declarants have argued that they are entitled to a recommended decision by the hearing officer under both the Administrative Procedure Act and "general rules of administrative due process." We cannot agree.

No requirement that there be such a recommended decision in these proceedings is imposed by either our rules of practice or the Administrative Procedure Act. Section 8 (a) of the Administrative Procedure Act provides that " * * * in rule making or determining applications for initial licenses," a recommended decision by a hearing officer may be dispensed with and " * * * in lieu thereof, the agency may issue a tentative decision or any of its responsible officers may recommend a decision. * * * Under the definitions of "rule making" and "license" contained in sections 2 (c) and (e) of the Administrative Procedure Act,¹ it is clear that these proceedings

fall into the category of "rule making or determining applications for initial licenses." And Rule IX of our rules of practice does not impose any intermediate decision requirement beyond that imposed by section 8 (a) of the Administrative Procedure Act.

(e) *License and licensing.* "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission. "Licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.

The Administrative Procedure Act undertook to codify the basic requirements of what applicants-declarants appear to refer to as "administrative due process," and our rules of practice attempt to carry out the requirements of that act. We are not aware that these or any other procedural standards would be violated by denial of the instant request.

While we have accorded procedural safeguards which, though not specifically required, are shown to be appropriate to a full and fair determination of contested issues, we find here no situation warranting the exercise of our discretion in favor of granting the request of applicants-declarants. The hearings did not involve any issues which are accusatory or disciplinary in nature or the determination of which requires passing upon the credibility of witnesses. The present proceedings relate merely to securing the approval by this Commission with respect to a stock reclassification desired by applicants-declarants, which does not have any material effect on other investors, and which has not been opposed. The preparation of a recommended decision by the hearing officer in this case would unduly delay our decision and would not be conducive to any greater clarification of the issues than might be achieved through the filing of a recommended decision by the Director of the Division of Public Utilities. In view of the nature of the proceedings, the issues, and the evidence taken at the hearings, it is clear that a recommended decision by the hearing officer is neither necessary nor appropriate to the affording of adequate decisional procedure to applicants-declarants, and we shall accordingly deny their request.

However, in view of the request that has been made for an intermediate decision in this case, and in view of applicants-declarants' stated desire for prompt disposition of this matter,² we are of the opinion that the alternative procedure specified in section 8(a) of the Administrative Procedure Act and Rule IX(c) of our rules of practice is the appropriate one to be followed in this case, namely, that a recommended decision should be prepared by the Director of the Division of Public Utilities, and that applicants-declarants should have an

opportunity to file exceptions and briefs with respect to such recommended decision. In view of applicants-declarants' stated desire that approval of the proposed transactions be granted by December 1, 1948, we shall instruct the Director of the Division of Public Utilities to file his recommended decision by November 17, 1948, and shall allow the applicants-declarants until November 24, 1948, to file exceptions to such recommended decision and briefs in support of such exceptions.

For the foregoing reasons,

It is ordered, That the request of North American and Union for the preparation and filing by the hearing officer of a recommended decision in these proceedings be and it is hereby denied; and

The Director of the Division of Public Utilities is instructed to prepare and file on or before November 17, 1948 a recommended decision on the application-declaration; and

Applicants-declarants are granted opportunity to file on or before November 24, 1948 exceptions and briefs relating to such recommended decision.

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10177; Filed, Nov. 22, 1948;
8:48 a. m.]

[File No. 70-1977]

AMERICAN GAS AND ELECTRIC CO. AND
AMERICAN GAS AND ELECTRIC SERVICE
CORP.

ORDER GRANTING APPLICATION AND PERMITTING
DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 17th day of November A. D. 1948.

American Gas and Electric Company ("American Gas"), a registered holding company, and its wholly owned service company subsidiary, American Gas and Electric Service Corporation ("Service Corporation"), having filed a joint application-declaration and amendment thereto pursuant to the Public Utility Holding Company Act of 1935, particularly sections 7 and 10 thereof with respect to the following transactions:

For the stated purpose of supplying Service Corporation with adequate capital for its operations it is proposed to finance Service Corporation by increasing its authorized capital stock from 1,000 shares of the par value of \$100 per share, of which 100 shares are issued and outstanding and owned by American Gas, to 10,000 shares of the par value of \$100 per share, and by issuing 7,750 shares of said stock to American Gas against payment therefor of \$200,000 in cash and the surrender and cancellation of \$575,000 principal amount of open account indebtedness owned by Service Corporation to American Gas which open account indebtedness arose from advances of cash in that amount heretofore made by American Gas to Service Corporation without interest.

The application-declaration having been filed on October 19, 1948 and an amendment thereto having been filed on

¹ Section 2 of the Administrative Procedure Act defines "rule and rule making" and "license and licensing" as follows:

(c) *Rule and rule making.* "Rule" means the whole or any part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of any agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, cost, or accounting, or practices bearing upon any of the foregoing. "Rule making" means agency process for the formulation, amendment, or repeal of a rule. (Italics added.)

² Applicants-declarants' request that we give the proposed transactions prompt approval seems somewhat inconsistent with their demand for an intermediate decisional procedure which would necessarily take longer than were we to decide the matter initially.

November 4, 1948, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for a hearing with respect to said application-declaration, as filed or as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application-declaration, as amended, that the requirements of the applicable provisions of the act and the rules thereunder are satisfied, that no adverse findings are necessary, and that it is not necessary to impose any terms and conditions other than those set forth below, and the Commission deeming it appropriate that the said application-declaration, as amended, be granted and permitted to become effective forthwith;

It is ordered, Pursuant to said Rule U-23 and the applicable provisions of said act, that said application-declaration, as amended, be and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions contained in Rule U-24.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10175; Filed, Nov. 22, 1948;
8:48 a. m.]

[File No. 70-1982]

KENTUCKY UTILITIES CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 17th day of November A. D. 1948.

Kentucky Utilities Company ("Kentucky"), a subsidiary of the Middle West Corporation, a registered holding company, having filed a declaration and an amendment thereto pursuant to sections 11 (b) (1) and 12 (d) of the Public Utility Holding Company Act of 1935 and Rule U-44 promulgated thereunder, with respect to the following transactions:

Kentucky proposes to sell to Western Kentucky Gas Company, a nonaffiliated company, all of Kentucky's gas utility properties located in and about the City of Danville, Kentucky, pursuant to a contract dated September 21, 1948, for a cash consideration of \$155,500 subject to closing adjustments. The proceeds to be received by Kentucky from the proposed sale will be deposited with the Trustee under the company's mortgage dated May 1, 1947, and will be withdrawn, within one year, in accordance with the provisions of said mortgage and will be used for the purpose of making additions and extensions to its electric utility plant and system.

The declaration, as amended, contains an order of the Public Service Commission of Kentucky authorizing the proposed sale and purchase; and

Said declaration having been filed on October 25, 1948, and the last amendment thereto having been filed on November 16, 1948, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated under said act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable sections of the act and the rules and regulations thereunder are satisfied and finding it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective forthwith; and

The Commission finding that Kentucky is engaged primarily in the electric utility business; that said gas utility properties are the only remaining natural gas properties, are not connected with the company's manufactured gas properties and are not capable of integration with the electric utility properties owned and operated by Kentucky; and that the proposed use of the proceeds of sale will contribute to the development of an integrated electric utility system; and

Kentucky having requested that the Commission's order permitting the declaration to become effective conform to the requirements of sections 371, 372, 373 and 1808 (f) of the Internal Revenue Code, as amended, and the Commission deeming it appropriate to grant this request:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed in Rule U-24, that the declaration, as amended, be, and the same hereby is, permitted to become effective forthwith.

It is further ordered and recited, That the sale by Kentucky Utilities Company of its gas utility properties (except a certain specified building and equipment) located in or in the vicinity of the City of Danville in the Commonwealth of Kentucky for an amount in cash equal to the aggregate of (a) \$155,500, (b) the amount of net additions made by Kentucky Utilities Company to said properties between December 31, 1947 and the date of closing, (c) the cost to Kentucky Utilities Company of materials and supplies on hand or on order pertaining to said property at the date of closing, and (d) the adjusted amount of the 1948 ad valorem tax on said properties, and the expenditure within 24 months of the consummation of the said sale, of an amount equal to the proceeds received from said sale, for property consisting of additions and extensions to its electric utility plant and system, are necessary or appropriate to the integration or simplification of the holding company system of which Kentucky Utilities Company is a member and are necessary or appropriate to effectuate the provisions of section 11 (b)

(1) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10174; Filed, Nov. 22, 1948;
8:48 a. m.]

[File No. 70-1985]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 17th day of November A. D. 1948.

Notice is hereby given that an application has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by Public Service Company of New Hampshire ("New Hampshire"), a public-utility subsidiary of New England Public Service Company, a registered holding company. Applicant has designated the first sentence of section 6 (b) of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than December 2, 1948, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after December 2, 1948, said application, as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application and amendment which are on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

New Hampshire proposes to issue or renew from time to time until September 30, 1949, or until the company shall have received at least \$4,000,000 from permanent financing, whichever shall first occur, short-term notes, i. e., notes having a maturity of nine months or less, up to a maximum amount (together with all other outstanding short-term notes) of \$6,275,000. The company proposes to issue such notes as funds are required in order to continue its construction program and to meet its other cash needs. The company had outstanding at November 1, 1948, short-term notes aggregating \$2,100,000. The application states that the company believes that under present conditions it will be able to borrow such funds at an interest rate of not exceeding 2½% per annum, but that it has no commitment from any bank as to the interest rate. The appli-

cation further states that in case the interest rate on any of the promissory notes should exceed $2\frac{1}{2}\%$ per annum, the company will file an amendment to its application stating the name of the bank, the terms of the note and the rate of interest at least five days prior to the execution and delivery of said note, and unless the Commission shall notify the company to the contrary within said five day period, the amendment shall become effective at the end of said period. The company estimates that it will receive \$6,750,000 from permanent financing by September 30, 1949, and that the proceeds from such permanent financing will be used to repay the short-term notes then outstanding and the balance for further expenditures on the company's construction program and for other corporate purposes.

The application states that the proposed transactions are not subject to the jurisdiction of the New Hampshire Public Service Commission, the regulatory commission of the state in which the company is organized and doing business, except to the extent that a note issued in renewal of a previously outstanding note matures more than twelve months after the date of issue of the first note evidencing the original loan. The application further states that all notes evidencing loans originally made prior to September 30, 1948, will be paid and discharged out of the proceeds of the company's Series D bonds issued in October 1948.

The amount of notes proposed to be issued by the company is in excess of 5% of the principal amount and par value of other outstanding securities of the company. The company requests authorization pursuant to the first sentence of section 6 (b) of the act to issue such notes.

The application states that there are no expenses to the company in connection with the proposed transactions other than legal and other incidental expenses, estimated at not more than \$500, in connection with the preparation and filing of the application.

The company requests that the Commission's order be made effective forthwith upon its issuance.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10179; Filed, Nov. 22, 1948;
8:49 a. m.]

[File No. 70-1994]

NORTHERN STATES POWER CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of November A. D. 1948.

Notice is hereby given that an application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("the act") by Northern States Power Company ("Northern States"), a Minnesota cor-

poration which is a registered holding company and also a public utility operating company. Northern States designates sections 9 (a) and 10 of the act as applicable to the proposed transaction.

All interested persons are referred to said application on file in the office of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

Northern States proposes to acquire from McLeod Cooperative Power Association ("Seller"), a Minnesota corporation, certain utility assets owned by Seller consisting principally of the existing electric distribution and street lighting systems located in the Village of New Auburn, Sibley County, Minnesota, together with all equipment of and appurtenances to each of said systems and all franchises, permits, contracts, leases, easements and rights of way under which said property is held or operated, including Seller's service contracts (which Northern States agrees to assume); but excluding Seller's cash on hand or in banks, accounts receivable, customers' deposits and refundable advances, prepaid insurance, and certain specific items of physical property as described in the sales agreement dated October 18, 1948. The purchase price is \$13,540, subject to adjustments as provided in said agreement.

The estimated original cost of said property at August 31, 1948 is \$15,465, and the estimated depreciation on a straight line basis is \$4,231. Northern States proposes, upon consummation of the transaction, to charge to its earned surplus the electric plant acquisition adjustment of \$2,306. No fees or commissions are involved. The expenses of Northern States in the matter are estimated at \$500.

The property to be acquired serves electric energy at retail to approximately 126 customers in said Village of New Auburn. The energy is presently supplied at wholesale to the Seller by Northern States, whose electric properties completely surround the property to be acquired. Northern States will supply the new customers at its regularly scheduled rates, which are somewhat lower than the rates presently charged.

The application states that the proposed transaction is not under the jurisdiction of any State commission or any other Federal commission.

It is desired that the order of the Commission authorizing the transaction be made effective as soon as possible.

Notice is further given that any interested person may, not later than November 26, 1948 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after November 26, 1948, said application may be granted as provided in Rule U-23 of the rules and regulations

promulgated under the act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10178; Filed, Nov. 22, 1948;
8:49 a. m.]

[File No. 812-569]

NEWMONT MINING CORP. ET AL.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its offices in Washington, D. C., on the 17th day of November A. D. 1948.

In the matter of Newmont Mining Corporation, Empire Star Mines Company, Limited, and Northern Empire Mines Company, Limited; File No. 812-569.

Notice is hereby given that Newmont Mining Corporation of 14 Wall Street, New York, New York, a closed-end non-diversified management company registered under the Investment Company Act of 1940, has filed an application pursuant to section 17 (b) of the act for an order exempting from the provisions of section 17 (a) of the act a proposed transaction whereby Empire Star Mines Company, Limited ("Star"), an affiliated person of the Applicant and of Northern Empire Mines Company, Limited ("Northern") would purchase from the Applicant 41,605 shares of the capital stock of Northern, an affiliated person of the Applicant and of Star, for \$62,407.50 in United States funds.

It appears from the application that Star, a Delaware corporation, has 116,300 shares of capital stock outstanding, of which the Applicant owns 43,325 shares, approximately 37%. Northern, an Ontario corporation, has 400,000 shares of capital stock outstanding, of which 270,530 shares, or 67.6%, are owned by Star and 41,605 shares, or 10.4%, are owned by the Applicant. Said 41,605 shares of Northern were acquired by the Applicant as a dividend paid by Star on March 15, 1938 to its stockholders of record as of March 1, 1938. The fair market value of the Northern stock at the time the dividend was received was \$6 per share in United States funds, a total of \$249,630 for the shares received by the Applicant.

It further appears that Northern was organized in 1932 for the primary purpose of developing and operating the Northern Empire Mine in the Little Long Lac District in Ontario. The life of this mine was considerably curtailed by a barren diabase sill encountered at a depth of about 1,000 feet replacing the vein on its dip for a vertical distance of about 700 feet. The ore beneath the sill has been worked out, and the mine was abandoned in August 1941.

Since November 1943, Northern's mining activities have been limited to the neighboring Undersill Mine (owned by Undersill Gold Mining Company in which Northern has a 75% interest) in which

the same sill has interrupted the vein. Work beneath this sill has disclosed only a limited amount of commercial ore, and further development has been suspended until completion of similar work by owners of adjoining property. It is possible that work in the Undersill Mine may never be resumed. The working capital of Northern has been invested in Canadian Government and corporate securities. If operations are not resumed, Northern will be liquidated. The estimated present net liquidating value per share of Northern based on the Canadian market for securities held but making no allowance for the notes and shares of Undersill Gold Mining Company amounts to \$2.38 per share in Canadian funds. Trading in shares of Northern on the Toronto Stock Exchange and over the counter in New York is inactive. The present "bid" in Toronto is \$1 per share and the present "asked" is \$2.25 per share. The last sales on the Toronto Exchange involved 200 shares on October 15, 1948 at \$1.05 per share. The last sales over the counter in New York were at \$1.25 per share, Canadian funds, on September 15, 1948.

The Applicant wishes to sell and Star wishes to purchase the 41,605 shares of Northern held by Applicant at \$1.50 per share United States funds, or a total of \$62,407.50. It is alleged that the Applicant would have difficulty in selling so large a block of shares in the market and desires to decrease its present holdings of blocked Canadian funds, and, therefore, desires to effect the proposed sale for United States funds. Star is willing to purchase such shares to enlarge its control of Northern and to facilitate liquidation if and when undertaken.

For a more detailed statement of the matters of fact and law asserted, all interested persons are referred to said application which is on file in the offices of the Commission in Washington, D. C.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after November 29, 1948, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than November 26, 1948, at 5:30 p. m., submit in writing to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 48-10180; Filed, Nov. 22, 1948; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 80 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9783, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12306]

USABURO SUZUKI

In re: Estate of Usaburo Suzuki, deceased. File D-39-17410; E. T. sec. 9593 (H-102).

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mii Suzuki and Soichiro (Shoichiro) Suzuki, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the sum of \$938.07 was paid to the Attorney General of the United States by Albert K. Kimura, administrator of the Estate of Usaburo Suzuki, deceased;

3. That the said sum of \$938.07 was accepted by the Attorney General of the United States on September 21, 1948, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of \$938.07 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid, nationals of a designated enemy country (Japan);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest.

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10182; Filed, Nov. 22, 1948; 8:51 a. m.]

[Vesting Order 12363]

KARL JUNGBLUTH

In re: Trust Agreement dated July 12, 1928, between Karl Jungbluth, donor, and The Farmer's Loan and Trust Company, trustee. (File D-28-10498-G-1).

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Jordan, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated July 12, 1928, by and between Karl Jungbluth, donor, and The Farmers' Loan and Trust Company, trustee, presently being administered by City Bank Farmers Trust Company, Trustee, 22 William Street, New York 15, New York.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10183; Filed, Nov. 22, 1948; 8:51 a. m.]

[Vesting Order 12301]

WENZEL ASCHENBRENNER

In re: Estate of Wenzel Aschenbrenner, Deceased. (File No. D-28-12122; E. T. sec. 16328).

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Theresia Aschenbrenner, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Wendel Aschenbrenner, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Theresia Schaefer, as executrix, acting under the judicial supervision of the Orphans' Court of Montgomery County, Norristown, Pennsylvania;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10184; Filed, Nov. 22, 1948;
8:51 a. m.]

[Vesting Order 12313]

ISAO HARRY HASEGAWA

In re: Cash owned by Isao Harry Hasegawa. F-39-6272.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Isao Harry Hasegawa, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Cash in the sum of \$520.00, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158915, "Deposits, Funds of Civilian Internees and Prisoners of War," and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or de-

liverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Isao Harry Hasegawa, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10185; Filed, Nov. 22, 1948;
8:51 a. m.]

[Vesting Order 12314]

KENICHI HASHIMOTO

In re: Cash owned by Kenichi Hashimoto. D-39-19209-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kenichi Hashimoto, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Cash in the sum of \$572.35, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158915, "Deposits, Funds of Civilian Internees and Prisoners of War," and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Kenichi Hashimoto, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate con-

sultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10186; Filed, Nov. 22, 1948;
8:51 a. m.]

MICHAELA MOUTZOURIDOU

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property and Location

Michaela Moutzouridou, Athens, Greece, 6869; All right, title, interest and claim of any kind or character whatsoever of Fritz Lustgarten in and to the estate of Sigmund Lustgarten, deceased.

Executed at Washington, D. C., on November 16, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10158; Filed, Nov. 19, 1948;
9:02 a. m.]

[Vesting Order 12318]

HIDEAKI OSHIMO

In re: Cash owned by Hideaki Oshimo. D-39-19208-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hideaki Oshimo, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Cash in the sum of \$611.96, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158915, "Deposits, Funds of Civilian Internees and Prisoners of War," and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Hideaki Oshimo, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or other-

wise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10187; Filed, Nov. 22, 1948;
8:51 a. m.]

[Vesting Order 1798, Amdt.]

SAMUEL HARLAN, JR.

In re: Trust under Deed of Samuel Harlan, Jr. dated January 2, 1878. (File No. D-28-2374; E. T. sec. 3336.)

Vesting Order 1798 dated July 14, 1943 is hereby amended as follows and not otherwise.

By inserting immediately following the name Sarah Maria Jobahaza, wherever it appears in said Vesting Order 1798, the words also known as Maria Josefa von Dory Jobahaza.

All other provisions of said Vesting Order 1798 and all actions taken by or on behalf of the Alien Property Custodian or Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on November 18, 1948.

For the Attorney General.

[SEAL] DAVID L. BRAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10188; Filed, Nov. 22, 1948;
8:51 a. m.]